

INITIAL OBSERVATIONS OF THE NEW LEADERSHIP AT THE U.S. BORDER PATROL

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS

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INITIAL OBSERVATIONS OF THE NEW LEADERSHIP AT THE U.S. BORDER PATROL

WEDNESDAY, NOVEMBER 30, 2016

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, McCain, Portman, Lankford, Ayotte, Ernst, Carper, McCaskill, Tester, Baldwin, Heitkamp, Booker, and Peters.

OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. Good morning. This hearing of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) is called to order.

I want to welcome the witnesses. Certainly, thank you for your testimonies and your time here, today—the Chief and the Deputy Chief of the U.S. Border Patrol (USBP). I am definitely interested in what you have to say.

I decided to hold this hearing, actually, before the election, as we were monitoring the renewed crisis—I do not think the crisis ever went away, but, certainly, we have not been seeing the publicity about the unaccompanied alien children (UACs) coming in from Central America, which is pretty much at 2014 levels—just not being publicized. But, you, of course, are having to deal with it, so I think we want to really kind of highlight that.

And, based on the election, I am also encouraged by the fact that I think we will have an incoming Administration that will be definitely dedicated and committed to securing the border, which we must do.

So, I want to get your initial observations of where you think we are at, in terms of border security, and get some initial thoughts on what we need to do to actually secure the border and honor that commitment.

I do not want to take a whole lot of time. We do have a couple of charts here, just laying out the problem. The first is just a chart of the history¹, from 2009 through last fiscal year (FY), of the number of UACs that have come in from Honduras, Guatemala, and El Salvador. And, you can see, prior to Deferred Action for Childhood

¹ The chart referenced by Senator Johnson appears in the Appendix on page 57.

Arrivals (DACA), we were at pretty low levels—somewhere around 3,000 to 4,000 UACs from Central America. In 2012, we went to 10,000. Deferred Action for Childhood Arrivals was implemented. All of a sudden, we hopped to 20,000, then 51,700, and back down a little bit in 2015. But, we are up there—almost to 50,000 in 2016. And, the initial starting months here, in 2017, do not look encouraging either.

So, it is a real problem, but it is not the only problem, because, as our second chart¹ shows, in addition to the incentives that we create in our law for UACs coming from Central America, now we see family units coming as well. And, those numbers of people coming in, as family units, actually exceeds the number of UACs. And, my concern is, we are not publicizing it, because the Border Patrol has been so humane and so effective at apprehending, processing, and dispersing. So, we have dispersed well over 120,000 UACs to all points in the United States. We actually have a chart² here for Members to see, where the 120,000—it is really about 130,000 UACs that have been dispersed around the country. I have Members' States in yellow, so you can see how many UACs have been relocated into your States. That is the kind of information we have.

I do ask unanimous consent (UC) that my written statement be entered into the record.³

I do want to take this moment to, certainly, thank Senator Ayotte for her dedicated service on this Committee. I think I speak for all of the Committee Members when I say we will definitely miss you and your participation here, on this Committee and in the Senate. And, we, certainly, wish you well in the next chapter of your life—in your next career. So, thank you for your service.

With that, I would like to turn it over to Ranking Member Senator Carper.

OPENING STATEMENT OF SENATOR CARPER⁴

Senator CARPER. If I could just follow up, I was fortunate this morning to run into Senator Ayotte and a couple of our colleagues in the Senate dining room with Ali Mayorkas, who just stepped down as Deputy Secretary of the Department of Homeland Security (DHS). And, I am reminded, just on the heels of what our Chairman has said about Kelly, that, right after World War II, the British won—with a lot of help from us—and Winston Churchill, you will recall, was the Prime Minister (PM) of the country and, literally, carried them on his back through the war. And, 6 months later, he lost reelection. He was not reelected. And, one reporter said to him, at the time, "For you, Mr. Churchill, is this the end?" And, he replied, famously, "This is not the end. This is not the beginning of the end. This is the end of the beginning." And, it has been a joy to serve with you. And, thank you for your service. It has been great having been on this Committee. And, for you, my friend, this is the end of the beginning.

With that having been said, that is all I had to say—no, I have more to say than that. But, I want to start this morning by thank-

¹ The chart referenced by Senator Johnson appears in the Appendix on page 58.

² The chart referenced by Senator Johnson appears in the Appendix on page 59.

³ The prepared statement of Senator Johnson appears in the Appendix on page 43.

⁴ The prepared statement of Senator Carper appears in the Appendix on page 44.

ing you, Mr. Chairman, for bringing us together, and our witnesses for joining us, today. You take on tough jobs—really important jobs, hard jobs, and challenging jobs. But, I am impressed with you, I am impressed with the folks that you lead, and we are grateful for your service. Many times, I have been down to the border—sometimes with this guy and sometimes with others on our Committee—and I look forward to being back there—maybe with you—in the not too distant future.

It has always been an important issue for this Committee and it is an important issue to me. It has commanded particular attention during the time I have been privileged to be Chairman and Ranking Member as well as just a Member of this Committee. I think everybody, certainly, in this room—and I think most people in this country—want stronger borders. If we do not have strong borders, we have a real problem. And, we all want to keep terrorists out of this country. But, we also need to remain clear-eyed about some of the other real risks and real solutions—and I always like to focus on the real solutions, the root causes, and how to address those root causes.

Unfortunately, during this past campaign season—which, thankfully, is over—immigrants and refugees were too often unfairly attacked as a grave threat to our country—in many cases where they are not. We heard a lot about walls and deportations, and not enough about addressing the underlying causes of the real immigration challenges that we face. As a result, too many immigrants, who have come to the United States from all corners of the globe, are anxious that they will no longer be able to care for their families and contribute to our great country. This includes the “Dreamers” who were brought here as children, but are now fearful of being pulled from jobs, pulled from their schools, and deported to countries they may not even remember. And, I just do not think we strengthen our country by ignoring the contributions of immigrants or by turning our backs on refugees.

Helping vulnerable people is part of our moral fabric as a country. Scripture teaches us that we have a moral imperative to the “least of these” in our society—“When I was a stranger in your land, did you take me in?”—and to treat other people the way we want to be treated. Doing so also contributes directly to our economic strength. For generations, our open and diverse society has attracted immigrants of all backgrounds, who have continually enriched our country and helped us to grow and to prosper. The deeply troubling attack this past week at Ohio State University (OSU), where I was once a Navy Reserve Officers Training Corps (ROTC) midshipman, many years ago, weighs heavily on my mind and on the minds of many across this country. It reminds us that we must continue to be eternally vigilant. We must work hard to meet both our security challenges as a Nation and our moral imperatives. And, indeed, I believe we can do both—and I believe we must do both.

Before I highlight some of the tools that I believe can help better secure our borders, I think it is important to, first, recognize the significant strides we have already made along our Southwestern border. This is thanks to the efforts of a lot of people, including the folks you lead. For years, we worried about large-scale undocu-

mented migration from Mexico. Now, experts tell us that there are more Mexicans going back into Mexico, from the United States, than Mexicans coming out of Mexico into the United States, and that net migration is less than zero. The men and women at U.S. Customs and Border Protection (CBP) deserve a lot of the credit for that turn around, but, perhaps, the biggest factor for the change is the strengthening of the Mexican economy. They have a strong, vibrant middle class there, and it helps hugely. That is an important thing to keep in mind, as we talk about whether to reopen trade agreements in the region.

The surge we are seeing today, along our Southwestern border, right now, is a different challenge—and it is mostly a humanitarian one, as you know. Thousands of kids and their families, from El Salvador, Guatemala, and Honduras—most of us have been to those countries, which we call “the Northern Triangle”—they are fleeing extreme violence and poverty in their home countries and are seeking asylum in the United States. We are complicit in their misery—and the Chairman has said this again and again—by virtue of our addiction to drugs. They send us drugs, we send them guns and we send them money. And, the people face lives of misery down there—horror down there—and they want to get out and they want to come here to be safer.

Haitian migrants, on the other hand, including many who had been living and working in Brazil until its recent economic decline, are another new concern, as we know. Most of these migrants are turning themselves in to agents—not trying to evade the agents that work for you—so it is unlikely that we will fix these current challenges with a wall—or even with more Border Patrol agents (BPAs). Instead, we must address the root causes of this migration by helping the governments of El Salvador, Guatemala, and Honduras improve the desperate conditions that too many of their citizens face every day. When I am down there, I always talk about Home Depot to the folks in those countries. I say, “You can do it, Honduras, Guatemala, and El Salvador. We can help. We cannot do it for you. You have to do it. But, we have an obligation to help, because we are complicit in your misery.”

I traveled to the Northern Triangle, once again, this past October. And, I saw real efforts being made by the governments there to address the extreme poverty, violence, and hopelessness that drive so many of their citizens to make the dangerous journey across Mexico to our border. Last year, Democrats and Republicans provided about \$750 million to support these countries, as they work to address these difficult conditions. I hope we can continue this bipartisan support. They have to do their share. Actually, they have to do a lot more of the heavy lifting than we do. But, if they do, then we have an obligation—I think a moral obligation—to help them. But, I believe it is cost-effective and the right thing to do, given that our addiction to drugs fuels so much of the lawlessness and instability in that region.

We also have to work with our international partners to crack down on smugglers and traffickers who exploit migrants. I have been impressed, for example, with the vetted units that I have seen during my trips to the Northern Triangle—where our agents and our officers work side by side with foreign officers to target and

break up criminal trafficking networks. Of course, as the cartels become more sophisticated, we must also continue to evolve and take action here, at home. That is why I have supported common-sense and cost-effective solutions to strengthen our border security—and will continue to do so. That includes investments in advanced surveillance technologies, such as aerostats and drones, which, if used effectively, can be powerful force multipliers for our agents and others as well, as you know. It also includes resources, such as horses—remember the horses we saw down there?—and all kinds of boats, which may not be as high-tech, but can provide our agents with greater visibility across the border. Another common-sense solution involves fully staffing our ports of entry (POEs) and making smart investments in our aging port infrastructure.

Finally, I would be remiss if I did not discuss how comprehensive immigration reform can also be a critical force multiplier. I believe it can be and it should be. And, the idea of a worker program, where the folks—a lot of people down there do not want to come here and live permanently. They would like to be able to travel back and forth—work and go home again. And, they sometimes get stuck up here. And, they, frankly, find it hard to get back down there and back up here. So, I think comprehensive immigration reform would help on that.

As Republican and Democratic Administration officials have testified over the years, immigration reform would create legal channels for migration and “shrink the haystack” of unauthorized travelers, so that border agents can focus on the most significant security risks.

Lastly, comprehensive reform would also strengthen us economically. According to the Congressional Budget Office (CBO)—not me—none of us—but the Congressional Budget Office, which is nonpartisan—comprehensive immigration reform would provide a 5.4-percent boost in gross domestic product (GDP)—we could use that—more than \$1 trillion dollars, by 2033. We should all keep this in mind as we head into the next Congress.

Thank you, again, to you both for being here and for your leadership. And, Mr. Chairman, thank you for pulling this together today.

Chairman JOHNSON. Thank you, Senator Carper. And, I would be remiss if I did not also thank you for just your partnership over the last 2 years. As Ranking Member—and as a bipartisan Committee—we actually keep track of this—we have passed 83 pieces of legislation out of this Committee—most of it unanimously. We are up to, I think, over 30 pieces of legislation having been signed into law now, in some way, shape, or form. That is a pretty good record. I think I have certainly valued the example that Senator Joe Lieberman and Senator Susan Collins set, when I first joined this Committee—certainly which you and Senator Tom Coburn set. And, we have, I think, continued that tradition. So, I am going to miss you as my Ranking Member. And, I look forward to working with my next—Senator McCaskill is not here, but apparently she is going to be my Ranking Member. And, I certainly wish you well in your new assignment as well.

Senator CARPER. Thank you. I promise not to go far.

Chairman JOHNSON. OK.

Senator CARPER. It has been a pleasure to be here.

Chairman JOHNSON. You are still going to be on the Committee.

Senator CARPER. A pleasure to be your wingman—you bet—and to serve with everybody. This is a good group.

Chairman JOHNSON. We also have members, Chris Cabrera and other members of the National Border Patrol Council (NBPC)—and we appreciate their attendance, as well as look forward to working with them, again, to make that commitment to secure our border, in 2017 and beyond.

It is the tradition of this Committee to swear in witnesses, so if you will both rise and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MORGAN. I do.

Ms. PROVOST. I do.

Chairman JOHNSON. Please be seated.

Our first witness is Mark Morgan. Mr. Morgan is the current Chief of the U.S. Border Patrol at U.S. Customs and Border Protection, within the Department of Homeland Security. Chief Morgan is the first person from outside of the Agency to be appointed Chief of the U.S. Border Patrol. He began his career in Federal law enforcement in 1996, as a Special Agent at the Los Angeles (L.A.) Field Office of the Federal Bureau of Investigation (FBI). During his tenure with the FBI, he held numerous key leadership positions. And, in a little more full-blown biography here, I see that he supervised an FBI-led hispanic gang task force that focused on the emerging presence of two organized and violent transnational gangs in Southern California: Mara Salvatrucha (MS-13) and the 18th Street gang. I think that relates directly to a lack of border security, so we will probably want to ask some questions on that.

Chief Morgan, you have the floor.

TESTIMONY OF MARK A. MORGAN,¹ CHIEF, U.S. BORDER PATROL, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. MORGAN. Good morning. Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee, thank you for the opportunity to allow us to talk, today, about the United States Border Patrol.

During my first 4 months as Chief, I have had the privilege to travel to 11 sectors to meet with thousands of United States Border Patrol agents, staff, and leadership from the Northern, Southern, and Coastal borders, as well as the United States Border Patrol Academy headquarters, here in D.C., the K9 training facility, and our Special Operations Group (SOG) in El Paso.

In all of these interactions across the country, one thing was consistent and abundantly clear: The men and women of the United States Border Patrol have one of the toughest jobs in Federal law enforcement. They are the most assaulted Federal law enforcement in the United States. More than 7,400 Border Patrol agents have been assaulted since 2006. That rose, in fiscal year 2016, by 20 per-

¹The joint prepared statement of Mr. Morgan and Ms. Provost appears in the Appendix on page 46.

cent. Year-to-date (YTD), we are seeing an increase of assaults of 200 percent from the previous YTD. It is a dangerous job. And, in my short time here, two Border Patrol agents have already been killed in the line of duty: Agents Manny Alvarez and David Gomez.

They are faced with unforgiving terrain and weather, limited resources, long hours, and adverse conditions. And, they are often called upon to go above and beyond what they have been trained to do. They are tenacious in their pursuit of getting better, they are innovative, and they have a “can-do” attitude. They are dedicated to the mission, this country, themselves, and to doing something greater than themselves. I am honored to be serving with them. These are my first—and most important—observations in my first 4 months here.

Therefore, one of my focuses during my tenure, will be to continue to be their relentless advocate and to provide them with the tools, training, resources, and common-sense policies that they need to do their jobs effectively and safely.

Over my 30-year career, the current challenges we face in 21st Century contemporary law enforcement are unparalleled. The United States Border Patrol team is committed to identifying how we can get better and continue to evolve, as an organization, to address the challenges we face. Here are just a few important areas of focus that I think we need to look at, as we move forward:

Sustain and build the Border Patrol’s most valuable asset—our workforce;

Focus on recruitment, retention, and diversity;

Continue to improve on our threat-based, intelligence-driven, and operationally-focused strategy to increase our situational awareness and our competency levels across every mile of the United States border;

Evaluate current policies and laws that directly impact our mission to protect our Nation’s borders, with an emphasis on broadening enforcement operations and increasing consequences for those illegally crossing our borders;

And, reinforce our multilayered enforcement strategy and strengthen our situational awareness by continuing smart investments in infrastructure, technology, personnel, and operational assets.

The same smart investments in our facilities need to continue to be a top priority as well. We need to enhance our agility, focusing both on mobile technology and a mobile workforce.

We need to continue to strengthen our enforcement operations by expanding our intelligence-driven methodology, our counter-network strategies, our Air and Marine Operations (AMO), and our integrated operations with our partners, both domestically and internationally.

We need to expand and integrate our information technology (IT) systems. We need to focus on the targeted expansion of our human intelligence base, our document exploitation capacity, and our collection and dissemination capabilities.

We need to identify personnel needs across the spectrum of position classifications to ensure we have the correct balance of agents, staff, and intelligence analysts.

We need to focus and determine alternatives, concerning the allocation of resources, in support of the current humanitarian mission that the United States Border Patrol is being asked to do in an effort to get badges back to the border.

We need to develop a proactive communication strategy, in an effort to engage our internal and external partners and stakeholders.

And, we need to enhance performance metrics to reflect our efforts toward our strategy, focusing on threats and our mitigation effectiveness.

As we move forward, we will continue to focus on these priority areas—all of which will enhance the United States Border Patrol's ability to detect, prevent, and respond to threats along our Nation's borders.

We look forward to sharing our efforts with the Committee in the future. I thank you for the opportunity to testify here, today, and I look forward to your questions. Thank you.

Chairman JOHNSON. Thank you, Chief Morgan.

Our next witness is Carla Provost. Ms. Provost is the current Deputy Chief of the U.S. Border Patrol at U.S. Customs and Border Protection, within the Department of Homeland Security. Deputy Chief Provost is the first woman to be appointed Deputy Chief in the Agency's 92-year history. In her 20-year career, Deputy Chief Provost has held nearly every position in the U.S. Border Patrol, including Chief Patrol Agent of the El Centro Sector.

Deputy Chief Provost.

TESTIMONY OF CARLA PROVOST,¹ DEPUTY CHIEF, U.S. BORDER PATROL, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. PROVOST. Thank you. Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee, it is a privilege to be here, today, alongside Chief Morgan. This is a proud moment for me, as this is my first appearance at a Congressional hearing, representing the dedicated and hardworking men and women of the United States Border Patrol.

Though today marks 1 month into my current position as Deputy Chief, I have spent the majority of my professional law enforcement career—nearly 22 years—serving in the U.S. Border Patrol. During that time, I have seen quite an evolution. I entered on duty with the Border Patrol in January 1995. And, as an agent in the field, in both urban and remote border environments, I worked alongside my colleagues to address threats ranging from illegal immigration, smuggling, and trafficking to terrorism, by targeting, detecting, and interdicting potentially dangerous people and materials.

I was also significantly involved with the training and management aspects of Border Patrol operations across four different sectors, in all four States along the Southwest border, instructing agents in law, firearms, and bike patrol as well as directing sector budgets and human resources (HR), while overseeing operations.

¹The joint prepared statement of Ms. Provost and Mr. Morgan appears in the Appendix on page 46.

When I first came on board, there were less than 5,000 Border Patrol agents, nationwide. We were still processing on typewriters, and correction tape was worth its weight in gold. That year, we apprehended nearly 1.3 million people on the Southwest border, alone. As you can imagine, we did not possess the tools or the technology that agents use, today. Back then, it was common for the border to be marked by little more than a three-strand barbed wire fence or, in many places, nothing at all. We relied on 1960s-era aircraft for aerial support and, sometimes, homemade sensors and lighting to notify us of illicit activity.

In the year 2000, we hit our high watermark of more than 1.6 million apprehensions, nationwide. With that, came a renewed focus on border security, and the tragedy of the attacks on September 11, 2001 (9/11) only intensified that commitment.

As I progressed, so did the Border Patrol. We began hiring new agents in earnest, growing our presence along the border, dramatically. Not only did this increase our situational awareness, but it also impacted local businesses and the economy. Growth in many areas along the border seemed to mirror our own. Newer technology, to include sensors, night vision, and remote video surveillance, began to improve our capabilities. New tools, like tasers and pepperball launching systems, gave us new and different approaches for uses of force. Thanks to Congress, we received new patrol roads and fencing in strategic locations as well as saw improvement in many of those already in existence.

Here in Washington, I led the stand-up of CBP's Use of Force Center of Excellence, which is now known as the "Law Enforcement Safety and Compliance Directorate," dedicated to optimizing the safety, readiness, accountability, and operational performance of CBP law enforcement personnel by articulating use of force policy and supplying the highest-quality education and training to our agents and officers.

I also served as the Deputy Assistant Commissioner of CBP's Office of Professional Responsibility (OPR), overseeing compliance with all CBP-wide programs and policies relating to corruption, misconduct, internal security, and integrity awareness. I am proud to have the opportunity to bring my field experience and perspective to the U.S. Border Patrol headquarters.

I look forward to working with Chief Morgan and all of my colleagues in the Border Patrol, CBP, and our many partners to enhance our operations, to protect our Nation's borders, and to ensure the safety of the public that we serve.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman JOHNSON. Thank you, Deputy Chief Provost.

I will start the questioning with Chief Morgan. Obviously, I am concerned about the continued flow of UACs for a host of reasons. Because we have not ended the incentives for people to come into this country illegally, children continue to take the very dangerous journey, through Mexico, to come to this country. And, lives are being lost and assaults are perpetrated on them—and these children become real victims.

Talk a little bit about how the flow of UACs—how that over-stresses your resources and how it distracts from your other missions.

Mr. MORGAN. Yes, sir. I refer to the Border Patrol's involvement with UACs and family units as a humanitarian one, at this point. We know that, basically, of the other than Mexicans (OTMs)—which now is about 63 percent of our apprehensions—to include single family males—focusing on just UACs and family units, alone, on the OTM side—it is about 43 percent or 44 percent of our overall apprehensions. In the Rio Grande Valley (RGV), alone, it is probably closer to around 50 percent. It takes an exorbitant amount of resources and funding to sustain those operations, knowing that, basically, 100 percent of those family units and UACs are released into the United States. That is why I call that a humanitarian mission.

I refer back to midnight one evening when I was in a sector, where I saw a 6-year-old and an 11-year-old, who had made the trek from Honduras, holding hands. I do not refer to that 6-year-old and that 11-year-old as national security or law enforcement threats. But, again, the Border Patrol is dedicating a tremendous amount of resources to taking those folks in and to processing them.

At times, a lot of resources are dedicated to being professional child care providers, at this point. In RGV, alone, we have actually just established a second central processing center (CPC). Each one of those processing centers takes about 100 to 120 agents to man and is dedicated, basically 100 percent, to processing and taking care of the family units and UACs. We just recently opened up a temporary holding facility in Tornillo, Texas to help with that. The Ursula facility, in McAllen, Texas—as I know everybody is familiar with—that comes at a high cost as well to be able to run that facility and provide those resources.

Recently, when I traveled to RGV, the Patrol Agent in Charge (PAC)—the supervisor that was in charge said, “Chief, we are going to do whatever this country asks us to do, but I never thought, in my 20 years, that I would be, as part of the procurement, ordering baby powder and baby wipes.” Actually, I just came from one sector, where one of the agents' jobs during the day is to actually make sure that the food—the burritos that were provided—are being warmed properly. It takes a tremendous amount of resources to do this.

Chairman JOHNSON. Can you talk about the realities on the border, when you have a surge—let us say 50 or 100 UACs and family members—the way they can be used as a diversion for higher-value smuggling, whether it is drug, human, or sex trafficking? Is that not the reality of what is actually happening?

Mr. MORGAN. Yes, we have information that, absolutely, smugglers use that as a distraction. Yes, sir. And, again, the resources—it is absolutely impacting—as the Chief of the United States Border Patrol, I am comfortable in saying that the humanitarian mission—with the UACs and family units—it is impacting our ability to perform, I think, our national security and law enforcement mission. I am taking a considerable amount of resources and agents away from the border to take care of this mission.

Chairman JOHNSON. This is a problem we have not solved. And, I will read a quote from back on July 9, 2014. When Chairman Carper, at the time, called a hearing on this. Senator Carper said, “How do we change the mindset, to turn off the flow, so the parents will say, ‘I want my kid to stay here and have an opportunity, have a future here’? How do we do that?” And, I think it was the right question, in terms of how do we stop the flow. And, I think we probably have some difference of opinions, in terms of the effective way to stop the flow. I think Senator Carper—again, I would love to improve the conditions in Central America, so that there is not the incentive—the “push factor.” But, I am always talking about the “pull factor.” And, if we put up our other chart, of just UACs, we see that, of the children that have come here unaccompanied in 2013, 2014, 2015, and 2016—at least the last 3 years—we are returning less than 4 percent. And so, is the reality not that, if you come as a UAC from Central America, and you get into this country—and, by the way, it is easy to get in here. You just turn yourself in and you are apprehended, you are processed, and you are dispersed. And, they have access to social media, so more children and more families in Central America realize this—and it creates an incentive: pay the fee and take the dangerous journey, because, if you get into America, you are going to stay. Is that not an enormous problem—and one of the reasons why we have not solved this problem?

Mr. MORGAN. Yes, sir. When we talk about “push-pull factors,” if we go back just a little while, in 2006, 90 percent of those we were apprehending were Mexican nationals. And, now, we are at 36 percent. Why? Well, there are a couple of things that happened to explain why we see that dramatic decrease. One is a solid consequence delivery system, and there are a couple of things that happened.

One is that we instituted expedited removal (ER), so that the individuals knew that, when they came, they were being held, and then they were being removed. That was a consequence. They knew that. It served as a strong deterrence.

The other thing—one example is—

Chairman JOHNSON. Let me just interrupt you. So, that is with Mexicans?

Mr. MORGAN. Yes, sir.

Chairman JOHNSON. Or Canadians. But, talk about the difference between Mexicans and UACs or family units from Central America.

Mr. MORGAN. Yes, sir. So, what is happening with the UACs and family units—the OTMs, as we call them, from Central America—it is, basically, the same thing—is, right now, they know that, if they make it to the border, they will be released into the interior of the United States. Generally, that is done through a Notice to Appear (NTA). Border Patrol—we do not do that. We process them, as we normally do, and then we hand them over to the next Agency in the “whole-of-government approach”—and then, that is done. But, that is the reality—they come to the borders, and they are being released. And, what that does is, it sends a strong message to those folks in the country that, if you get to the United States border, we are going to let you in. So, it is a huge “pull factor.”

Chairman JOHNSON. So, if we would go back to the process of expedited removal—with humanity—bring these kids and send them right back to Guatemala, Honduras, or El Salvador, we would dramatically reduce the incentive—and my guess is, we would dramatically reduce the flow. Would you agree with that?

Mr. MORGAN. Yes, sir. And, that is why I was using the Mexican national example, because we used that same concept and, again, from 2006 we went from 90 percent to 36 percent. We reduced that “pull factor” by instituting a system of consequences and expedited removal.

Chairman JOHNSON. Deputy Chief Provost, I do not know whether you were involved, but we had a surge from Brazil. And, Secretary Michael Chertoff, at the time, had expedited removal. And, the surge ended. Is that not correct?

Ms. PROVOST. Yes. So, in 2005, we did have a surge from Brazil. We had received the authority to conduct expedited removal, starting the year prior. We did start utilizing that, and when we delivered the consequence of the expedited removal—and then, actually, the physical removal to Brazil—the numbers did decrease.

Chairman JOHNSON. OK. Thank you. My time has expired. Senator Carper.

Senator CARPER. Thank you. Again, thank you very much for your testimonies and for your leadership for a short period of time—and actually for a long period of time, Ms. Provost. I will reiterate, again, that we need secure borders, and we need to have a strong, well-equipped, and well-trained Border Patrol force. I believe we have that—and probably the best we have ever had—certainly the most expensive we have ever had, because of the money that we spend to support the thousands of people who work under your leadership.

I want to tell a quick story. I have told this before. Some of my colleagues have heard about it. I want to tell it again. Delaware has three counties. John McCain was once in our largest county, Sussex County, where we welcomed him, in one of his earlier campaigns. And, it is the third largest county in the country. We raise more chickens there than in any other county in America—and we process a lot of chickens. And, some of the folks who process those chickens come from Guatemala. And so, we have a significant Guatemalan presence in Sussex County.

Two years ago, when the surge of UACs really got going, I was down in Sussex County at a place called La Esperanza—“The Hope.” And, what they do there is, for the folks who show up on our doorstep, they try to provide some assistance for them, rather than just turn a deaf ear to them.

During my meeting with them, they told me of a boy—a teenaged boy, who had arrived in Sussex County, recently, with his sister and their family. They told me this story that he told them. He said that, when he was 13 years old, he was approached by a gang in Guatemala. And, they said, “We want you to join the gang.” And, he said, “Well, let me talk to my parents.” So, he talked his parents, and they said, “We do not want you to be in any gang.” He ended up talking to the gang members—they approached him, again, a couple of weeks later, and said, “We want you to be in our

gang. Are you ready to join us?" He said, "I talked it over with my parents, and it is not something I want to do."

They did not receive this very well. And, a couple of weeks later, they said to him, "Have you changed your mind?" He said, "No, I have not." And, they said, "If you do not change your mind, somebody in your family is going to die. Somebody is going to die." He talked to his family. They said, "Join the gang." And, he joined the gang.

A couple of months later, for his initiation as a gang member, one of the requirements that he had to undertake was to rape his 13-year-old sister. That was part of the initiation. And, he went home and told his parents. They said to him and his sister, "You are out of here. We are going to get you out of this country."

I dare say that if any of us lived in that kind of an environment with our kids, we would probably want them to be out of Guatemala, Honduras, or El Salvador—whatever country it was—and into a safer place.

One of our witnesses—Holly, what was the name of that witness? You all may remember Bishop Mark Seitz. He is from El Paso, Texas. He was a witness 1 year or 2 years ago. He shared this analogy with us. He talked about a house. And, he talked about the fire department, and the fire department coming to the house and setting the house on fire. The fire department setting the house on fire, and then locking the doors and driving away. That was the analogy that he used. And, the reason why they have the kind of violence down there is, in large part, because of us—because of our addiction to drugs and the flow of the drugs through those nations. And, they come to our borders—and we send them guns and money, as I said earlier.

So, what do we do about that? We have done great stuff on the border. We have great representation. You have explained some of what we are doing. We can always do more. And, we have been very generous, I think, in terms of our support for the assets—and whether it is walls, fences, or dirigibles—you name it, whatever—unmanned aircraft—all kinds of stuff. But, when you have a country where you have 15,000 small businesses extorted in a single year—basically, shut down—we know that small businesses are where jobs come from, in this country and, frankly, in other countries—15,000 shut down, because of extortion threats—that is just a loser. And, the kinds of threats that I just explained—just from the stories I heard in person—that has to be a part of the solution as well. It cannot be just us.

Twenty years ago—Senator McCain will recall that, 20 years ago, somebody started "Plan Colombia". And, "Plan Colombia" was not the United States coming down and solving all of their problems. "Plan Colombia" would say, "You have a problem here, and you have to fix your problem, but we are going to help you, because we are complicit"—with our addiction to cocaine, at the time. "We are complicit, and we are going to help you as well."

So, having said that, there is a reason why—and I think, Deputy Chief, you mentioned that, in your first year on the job as a Border Patrol Agent—I think you said that there were 1.3 million people coming across our borders and being taken into custody. It peaked at 1.6 million. And, it used to be, in those earlier days, that they

were mostly Mexican. Today, there are more Mexicans going back into Mexico than are coming out. But, all of those people are coming out of Honduras, Guatemala, and El Salvador. What more can we do to make the “needle in the haystack”—we can make either the haystack smaller or the needles bigger, and some of that involves work that is going to take place in those three countries. Give us some advice. How does comprehensive immigration reform help—particularly, when there is a guest worker program, where folks can come up from these countries, work for a while, and go back legally? Please.

Mr. MORGAN. First of all, I think Comprehensive Immigration Reform (CIR) is definitely needed, and we fully support that. You just alluded to a couple of examples of that.

Absolutely, there are definite “push factors”: weak economies and a weak government. In some cases, violence, family reunification, and economic equality are also factors. Those are all true, and I agree with that.

I think, from the United States Border Patrol perspective—again, I am just looking at the facts—and, like I said, when we do institute a really well-thought-out consequence delivery system, we do see that positively impacting the flow—meaning it does go down. That is definitely factual, and we can show that over the years.

I think we need to have a facilitated discussion as well about some current law and policy. And, I can give you one example: credible fear. So, we know, right now, that smuggling organizations are absolutely using and exploiting a credible fear. We know that they are coaching individuals on specifically what to say when they come here. They just rattle off—and they memorize the magic words that they need to say, so that they will fall within the statute of credible fear. We think that that is being exploited. We think that it has been going far beyond the original intent of the purpose of credible fear, like sort of the example you just used. Right? That is what credible fear is supposed to be used for, absolutely—but we know it is being exploited.

So, I think that is one thing that we can do, as a part of CIR—to take a look at those policies, where it makes sense, and try to have a good facilitated discussion. Are there some adjustments that need to be done going forward?

Credible fear, alone—from 2000 to 2013, less than 1 percent of those coming across were claiming credible fear. Today, it has exponentially gone up—and it has continued to rise. We see that as an issue.

Again, going back to the NTA, we know that that is definitely a “pull factor.” We know that they are communicating, and they are like, “Hey, it does not matter. If you get here, you will be released. You say these magic words”—even if you do not say the magic words, you are still going to be let into this country.

I think we need to have a discussion about our utilization of the NTA, to make sure that we are really applying it where it is needed, going forward. I think that needs to be part of the facilitated discussion on immigration reform.

Senator CARPER. OK. I am out of time. Mr. Chairman, I would just say one last quick sentence, if I could. I have said this before. I think it pertains to this discussion and is still appropriate, today.

No silver bullet to resolve it. No silver bullet. A lot of silver BBs. Some are bigger than others—and we need to do them all.

Thank you.

Chairman JOHNSON. Thank you, Senator Carper. And, again, I really appreciate the well-attended hearing, here. So, let us really keep it to 7 minutes. I would ask the Senators as well as the witnesses to keep the questions and answers within the 7 minutes, and we will proceed. And, everybody can have a chance to ask questions. Senator Portman.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman. I appreciate you having the hearing today, because it is a critical time. And, Chief Morgan, welcome to the Committee. And, to you, Deputy Chief Provost, and your officers out there, in the field, we appreciate what you guys do every day. As we heard earlier, it is under tough circumstances. And, to a certain extent, you are working under constraints that make it difficult for you to do your jobs.

I am going to change the topic a little bit and talk about drugs, and, particularly, the transnational criminal organizations (TCOs) that bring those drugs across our border. As you know, this Congress—this Senate and the House—has acted, and the President has signed legislation called the Comprehensive Addiction and Recovery Act (CARA). Senator Ayotte has just joined us. She is one of the original co-authors of that, and many Members of this Committee have been involved with it. It is important legislation. It is groundbreaking. It is really historic, in the sense that it focuses a lot on the demand side.

We have had other witnesses before this Committee, who have talked about the importance of reducing the demand for drugs. It focuses on prevention, education, treatment, and recovery, as well as helps to get prescription drugs off of the shelves. That is all important. We have an opportunity, in the next couple of days here, actually, to look at new legislation to put even more money into those efforts—and we all think that is important. I believe that is really the core.

But, there is still a huge issue with these drugs coming across the border. We have the opportunity to be able to increase the price of these drugs by better enforcement. Some statistics that I have seen indicate that we are stopping only about 1.5 percent to 2 percent of these drugs that are coming across the border.

Recently, we had testimony before this Committee, indicating that about 100 percent of the heroin and about 90 percent of the cocaine is coming across the border—much of it, of course, from Mexico—particularly, with regard to heroin. And, even methamphetamines—most of the methamphetamines are now coming across the border from Mexico.

And so, my question to you all is: What can you do better to stop these drugs, increase the price, and stop some of the consequences of these transnational criminal organizations, which not only add to crime here, in this country, but, of course, make these other governments—Mexico, Central American countries, Colombia, and so on—much more vulnerable to corruption? And, frankly, if you look at these numbers, they are increasing—not decreasing.

So, I guess my first question to you is: Are my statistics right? Are we only stopping about 1 percent or 2 percent of these drugs that are coming over the border—this poison that is coming into our communities? Do you think that is accurate?

Ms. PROVOST. Sure. First and foremost, I would say that—as you know and you mentioned—the amount coming across—we track everything that we apprehend. And, you are correct. We are having a number of drugs: methamphetamine, heroin, cocaine, and marijuana crossing our borders.

That being said, we use all of the resources that we can, to the best of our ability, to try to detect and apprehend—whether it be at the ports of entry at the border—or Border Patrol agents as well, with our multilayered approach, further into the country. We use our resources, such as our K9s. We are continuously trying to improve the training for our agents, so that we are better at interdicting.

That being said, the unknown is a difficult thing to measure for us. We do know that our numbers thus far this year, for FY 2017 YTD, everything has been trending down—except for methamphetamines, which are up slightly, at this point, year to date, compared to FY 2016. But, we will—

Senator PORTMAN. If I could just interrupt you for a second, Deputy, that concerns us, because we see an increase in overdose deaths. We are now seeing about 120 people dying a day in this country—five a day in my home State of Ohio, alone. Everybody on the front lines is saying the same thing, which is that it is getting worse—not better. And, this is the source of the biggest increase, which is heroin.

The other one is carfentanil and fentanyl as well as U-47700 (U4) and the synthetics, which are coming by mail, primarily.

Ms. PROVOST. Yes.

Senator PORTMAN. Which you have less control over, although you guys hear a lot about that, too. And, the Synthetics Trafficking and Overdose Prevention Act of 2016 (STOP Act of 2016), which some of us are proposing, will help there. But, you are saying that you are apprehending less of it. And yet, we are seeing more of it in our communities.

Ms. PROVOST. Well, that is just through the beginning of FY 2017. So, the last 2 months, our numbers are down slightly, but they are trending very closely, across the board, to where they were last year.

When we talk about how much we interdict, that is a difficult number to determine, because it is difficult to say what we do not know. That being said, we use all of the resources that we have, to the best of our ability, to try to interdict. It is a focus for us. It has been, over my entire career within the Border Patrol. We have many more tools now, than we did in the past, to assist us. We have grown in our capacity, with K9 officers and such—utilizing other sources to help us—

Senator PORTMAN. Deputy, let me just interrupt you, again, because my time is ending here. You say that you are using every resource that you have at your disposal. And yet, my understanding is, you have not asked for help from Operation Phalanx, for instance, which is a Department of Defense (DOD) operation, and

which would help, in terms of monitoring, and would help also, in terms of just the transporting—because some of these drugs come in, as I understand it, illegally, by air, just across the border, on small strips. Why are you not accessing some of these DOD resources that are available to you?

Mr. MORGAN. Sir, we actually are in dialogue to continue that operation. I know there is——

Senator PORTMAN. So, you are changing your view on that? And, you are going to ask for their help?

Mr. MORGAN. From my perspective, as the Chief of the United States Border Patrol, I agree with you: We need the help.

Senator PORTMAN. Do you need additional resources, beyond Operation Phalanx, to be able to do your job?

Mr. MORGAN. Yes.

Senator PORTMAN. I think that is important for this Committee to hear, because, again, I do not know if it is 1.5 percent or 2 percent that you are actually able to stop, but it is a very small number. I think you would agree with that. And, you indicated that you are using all of the resources that you have. You have new detection and monitoring capabilities, but, obviously, it is not working—to be able to stop this flow of the poisons. And, again, some of it is stopping it—some of it is increasing the cost. Ultimately, I think the cure is going to come from the demand side. But, we have to be able to do a better job at the border.

Mr. MORGAN. Yes, sir, I agree. And, it really goes to that threat-based, intelligence-driven, and operationally-focused approach as well. So, we need to increase our counter-network strategies. We need to work through initiatives, like Operation Stonegarden (OPSG), with our domestic partners. We need to work with—continue to work with our international partners—Canada and Mexico as well. We need to really take the fight to the enemy, and stop it, before it even touches the border. Those are all things we are doing, but we need to get better at——

Senator PORTMAN. I am going to ask you, if you would, to submit in writing, to the Committee, what you need from the U.S. Coast Guard (USCG), from our military—in terms of Operation Phalanx and other resources—from the Drug Enforcement Administration (DEA), and from other Federal Agencies—and how we can be helpful to you, in order to really begin to make progress on increasing these apprehensions and stopping the flow of some of these poisons.

Thank you, Mr. Chairman.

Senator MCCAIN. Could I just mention, Mr. Chairman, in the National Defense Authorization Act (NDAA), there is a requirement to use drones. Right now, drones are flying out of Fort Huachuca, Arizona, and you are not coordinating with them, which is crazy. So, there is a requirement, in the NDAA, that you coordinate with the military to use the drones to surveil the border.

And, finally, Mr. Chairman, things are not improving, as far as manufactured Mexican heroin is concerned. It is an epidemic. And, just because it is slightly better—that is totally unsatisfactory.

Chairman JOHNSON. Senator Baldwin.

OPENING STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you, Mr. Chairman.

Chief Morgan, I will narrow this, in a moment, to a question that I hope you will be able to answer. But, I just want to give voice to the fact that I have been hearing, as a Senator in the State of Wisconsin—and, certainly, from reading stories in the news—reports of a significant escalation of harassment, bullying, and incidents of hate directed toward immigrants, toward African Americans, toward Muslims, and toward other minorities in recent weeks. And, it has been very distressing to hear some of my constituents' accounts.

Recently, the Southern Poverty Law Center (SPLC), which is tracking some of the hateful incidents in the weeks after our recent election, said that anti-immigrant incidents were the most common type of harassments that have been reported.

In my home State, I have received communication from a wide number of individuals. I heard from a father in the community of Tomahawk, Wisconsin, who told me, "While in school, my son, who is adopted from Guatemala, was approached by a classmate and was told to pack his bags for Mexico."

A few weeks ago, there was a documented report of a piece of anonymous hate mail that had been sent to a family in Fitchburg, Wisconsin. The letter to the family, which includes 11 adopted children from the United States, from Ghana, and from China, read, in part, "Trump won. Go home. Race wars are on."

It is not only happening in Wisconsin, as I mentioned. It is across the country—and it is deeply concerning to me—and goes against the values that we hold as Americans.

I have also heard from constituents in the immigrant community about their very real fears concerning potential anti-immigrant policies, under the incoming Administration. For example, I have heard from legal green card holders that they are afraid to travel in the next few months, because they fear that they may be turned away or be subject to additional scrutiny when they seek to return to the United States.

And so, I want to ask you, in connection with helping to reassure my constituents, and other legal immigrants, that nothing will change in the U.S. Border Patrol's process for determining immigration status—and if you might add—I would like to hear about the training that your officers receive on the treatment of individuals in the Border Patrol's custody, including harassment and discrimination against immigrants and other minorities.

Mr. MORGAN. Yes, ma'am. First of all, everything you just described goes against everything I personally believe as well, as an American. So, I agree with you 100 percent.

As far as the United States Border Patrol, what we are doing and how we are doing it is not going to change. The current law and policy that we have been directed to operate under—that is what we will continue to operate. When that changes, then we will change. And, we will enforce the law and the policies that we are directed to. But, right now, we understand the law, and we understand the policies as they are written. The United States Border Patrol will comply with those policies going forward. There is not

going to be a change. Once there is immigration reform—and if there are new policies—we will adjust accordingly.

As far as the training at the academy, it is absolutely a significant topic, at the academy. I think we, actually, have one of our best leaders leading the United States Border Patrol Academy in Chief Patrol Agent Dan Harris. Personally, I have had numerous conversations with him. In my former life, I was Assistant Director of the FBI's Academy as well, where these things were talked about as well—implicit bias, etc. Those are critical things that we focus on and that we need to focus on—and we continue to focus on them.

Senator BALDWIN. Can you provide any additional detail on the curriculum during the training, other than the broad comments you have just made?

Mr. MORGAN. No, ma'am. I cannot provide like specific topic areas, but I can follow up and provide that

Senator BALDWIN. OK.

My understanding is that the U.S. Border Patrol is currently 50 percent overcapacity at its holding facilities. And, I understand that you are in the process of building additional temporary facilities, which will continue to provide medical attention, clothing, and other resources to women and children, in particular.

In addition to service on this Committee, as you know, I serve on the Homeland Security Subcommittee of the Senate Appropriations Committee. And, with that in mind, can you speak to what resources are currently needed, with regard to dealing with overcapacity issues in your holding facilities?

Mr. MORGAN. Yes, ma'am. Actually, Tornillo was one that we set up. It has a 500-bed capacity right now. It comes at a high cost. We are, actually, positioned to open up more, in other areas, where we do have an overflow. In some areas along the Southwest border, we are, actually, at more than over 100 percent capacity, in some of our areas. So, places—like in the temporary holding facilities, like Tornillo—it is necessary for us to deal with that overflow.

It comes at a high cost, like you said. I mean, it is really from A to Z. And, it really is child-care professional stuff that we are doing—clothing them, feeding them, making sure that they get medical attention, making sure that they are able to sleep, making sure that they get appropriate meals during the day, making sure that they have snacks and that meals are warm, and all of that stuff that we should be providing a child and a mother or a father of that child. That is what we are doing. But, as the numbers continue and increase, our capacity becomes strained. And, we are having to go to extreme measures to make sure that we are doing the right thing.

Senator BALDWIN. Thank you.

Chairman JOHNSON. Senator Ayotte.

OPENING STATEMENT OF SENATOR AYOTTE

Senator AYOTTE. Thank you, Chairman.

I wanted to follow up on some of the questions that Senator Portman asked about the heroin and fentanyl interdiction at the Southern border. And, this is something that I have also focused on in the Senate Armed Services Committee (SASC), along with

the Chairman of that Committee, Chairman McCain, in terms of working with our leaders in the U.S. Southern Command (SOUTHCOM) and the U.S. Northern Command (NORTHCOM), and enhancing their resources for interdiction there, because those networks, as I understand it, can be used to traffic anything. And so, it is a national security issue as well.

So, can you tell me, what is it that would be the most helpful to you, in terms of really increasing our ability to interdict—especially as we think of the devastation that Senator Portman referenced, which we have seen in my State as well—when it comes to heroin and fentanyl?

Mr. MORGAN. I think it has already, in part, been described by everybody here. And, you know it. First of all, we have to strengthen those partnerships. We have to strengthen that intelligence mechanism that really, through the counter-network operations—both domestically and with international partners—to really take the fight to them.

Senator AYOTTE. Right.

Mr. MORGAN. If they have made it to the border, we have kind of, in essence, already lost, right? So, we have really got to strengthen that intelligence apparatus.

Senator AYOTTE. And, as I understand it, on the Senate Armed Services Committee there also is a rule, I think, for some of the role of our military, on the other—obviously their role—thinking about their partnerships.

Mr. MORGAN. Yes, ma'am. And so, we also need to work with the intelligence community (IC) as well, and to make sure that the intelligence that we are gathering at the border, by the great men and women of the Border Patrol—the amount of information and intelligence they get at the border is overwhelming—in a good way. We need to make sure that the stuff that we know and the stuff that we get—that we are getting it to the right people, so that they can do what they need to do—that we are not able to do—in an overseas environment. It is absolutely right. We have to continue to strengthen that. We are doing it. We just need to get better at it.

Senator AYOTTE. I want to ask about the Northern border. Senator Heitkamp and I have a bill, the Northern Border Security Review Act, that actually did pass the House last night. And, Chairman Johnson and Senator Peters are also on that bill, and I am appreciative of that. As a Northern border State, this, to me, is very important as well. And, I wanted to know if you were familiar with the Northern Border Security Review Act and what your view is, as to the potential issues at our Northern border. And, I know that those issues are issues that can impact our national security, so what is your assessment of where we are on the Northern border and what is your view of the Northern Border Security Review Act—and whether you think it would be helpful?

Mr. MORGAN. So, first of all, I think the Act would be helpful. Anything that is going to have us further the dialogue and further focus on the Northern border is a good thing. I am trying to use the right adjective to talk about the Northern border—and we had the discussion yesterday. I think the right word I would use—I am “concerned” about the Northern border and the threats that are

posed there. Obviously, we are not in a classified environment, so we have to be narrow in how we talk about that. But, again, I will go back to that threat-based, intelligence-driven, and operationally-focused approach that we need to have. And, what we need to do is make sure that we are focused on threats—not just numbers. And, I will use an example really quickly.

So, the interdiction effectiveness rate that we all know, I do not think that is a great measure. If we apprehended 100,000 gang members or 100,000 6-year-olds, the output of that measure will be the same. But, we are really not talking about the “so what” behind it. So, what I want to make sure—we can focus on numbers, because we have to deal with the numbers, but I want to make sure that, in all that we do—our allocation of resources, our requests for requirements and resources, and our measures and metrics—that, first and foremost, it is focused on the “so what” and it is focused on the threat—and not just on the activity and the numbers going forward. I think we need to continue to strengthen that.

Senator AYOTTE. Thank you. Thank you both for what you do for the country. I appreciate it.

Chairman JOHNSON. Senator Booker.

OPENING STATEMENT OF SENATOR BOOKER

Senator BOOKER. Thank you. First of all, I want to thank you both for your service to our country—the jobs you do. It is an awesome responsibility. I stand in humble gratitude to both of you for what you do on a daily basis.

More than this, the job that you are doing is fundamental to the safety of my community and the State of New Jersey—as well as all of us. For some of the greatest threats we are facing as a Nation, you all are on the front lines protecting us. And, some of the most dogged issues that are undermining the safety and security of households, from drugs to terrorism, you all are the front lines. And, I am grateful for that.

In addition to that, as a person who, under my leadership, when I was a mayor, I had over 1,000 sworn officers as well as other first responders—and many folks just do not know the kind of pressures and challenges front-line law enforcement face every single day—the incredible dangers and the unrelenting—sometimes—abuse that officers face.

I want to just again echo the sentiments, I am sure, of all my colleagues, in just expressing the appreciation. When you talked about being the leading Agency with assaults to officers, that is very frustrating to me. And, I want to commit to you—and I am sure my colleagues agree—please reach out to me if there are things that we are not doing to support the mission that is central to your success of protecting the well-being of your officers, and giving them the resources they need to make sure they are doing what they need to do.

I have a concern—under my leadership officers—and I did everything I could to drive down those analytics, including attacks against officers, making sure they had tools that could protect their safety—technologies to protect them. One thing I did not build out early, in my time as mayor, which came back as a shocker to me, because it violated my values—as I know it would yours—was I did

not build up a set of metrics to be able to measure how my officers were interacting with the public. And, the American Civil Liberties Union (ACLU), and others, were making allegations that I did not believe were true about racial profiling—disparate treatment. But, we were arguing over things that there was no transparent analytics to measure. So, you and I share the same values concerning the conduct of first responders.

Now, the President's 21st Century Task Force on Policing urges Federal law enforcement Agencies to collect, maintain, and analyze demographic data on all detentions—and added that, to embrace a culture of transparency, law enforcement Agencies should regularly post, on the Departments' websites, information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

Once I saw my data and began to cooperate with the ACLU to make it public, I found that everything started getting better. The accountability started getting better and the like. You all do not collect data on stops. I was actually stunned to find that out, because I know that the integrity of your Agency—you would want to know, as a manager, who you are pulling over, racial demographics, and all of the things that the ACLU is compiling—also stunning data. The ACLU has uncovered over 6,000 pages of complaints, alleging abuse by Border Patrol agents, including racial profiling. Yet only one case has resulted in disciplinary action.

I was in a similar situation with all of the evidence—very little disciplinary actions from me—until we started shining a light, using objective data. And so, I would like to know, again, why you are not collecting this data—really analyzing it and crunching it—and doing it in a transparent way that, first, could deflect a lot of the criticism often officers face, because some things are not true. But, second, it could help you, as managers, to better manage your Agency to the integrity that I know you both hold as professionals.

Mr. MORGAN. Well, first of all, sir, thank you for your kind words about how tough it is to do this job. On behalf of the men and women of the United States Border Patrol, who are not in D.C.—so I am not in a dangerous position. They are on the front lines every day. So, on behalf of them, thank you, because I do think they have a dangerous job and they are on the front lines and they are protecting our families, so thank you very much.

Second, to your statements, I agree with you—everything you just said. We should be doing that, for the exact reason that you said, I think also to shine a light very positively. I am going to turn it over to the Deputy Chief here, to talk about what we are collecting. I do know that we are—I actually think we are collecting most of that stuff. I think what we need to do is get better at analyzing that stuff and getting that stuff out to the public. I think that is what we need to do—get better at.

With that, I am going to turn it over—

Senator BOOKER. Because this is the last time I will speak, can I get something from you about—you say, “I want to get better.” Are there deadlines and timelines that you have set for yourself to get better? And, then, the other things I would like to see from the Deputy Chief in the 1 minute and 50 seconds I have left—you are also, unfortunately, the lowest Federal Agency with law enforce-

ment, in terms of representation of women. And, that is something that we found with other Federal Agencies is really important to address. And, obviously, we know what is happening in Arizona with the Federal ruling right now—another area of just figuring out analytics to measure the treatment of people once you have them detained. The conditions in that Federal case were stunning to me and I know do not reflect our common values and the ones I know you share. Thank you.

Ms. PROVOST. If I may, just touching on the first point with the data collection, in my role in the Office of Professional Responsibility, following on the Chief's role over there, we have been working diligently—or they are working diligently with both the Border Patrol and the CBP Office of Field Operations (OFO) to improve our transparency across CBP. As you know, that was one of the Commissioner's priorities. He has said that numerous times.

There is a lot of improvement on data collection. I will tell you we have further to go when it comes to that. The sheer size of our organization, with over 45,000 sworn officers—we are working on this together. It is something that we realize we need to continue to improve upon. We work closely with many nongovernmental organizations (NGOs), in relation to any of their complaints. The Office of Professional Responsibility is expanding as well, to assist when it comes to investigations of any allegations against our employees.

The Chief mentioned how high assaults have been. I can also tell you one statistic, though, is that our uses of force have decreased regularly over the last couple of years. So, we are showing improvement there. We are focusing on our work with the public in general, and we realize that there is need for improvement there.

Just quickly, to touch on the representation of women, the Border Patrol does have a lower number of women. It has been around 5 percent really for the 20 years that I have been in the Border Patrol. That being said, working with our Office of Human Resources Management, we are taking a lot of steps to try to improve and to seek out more women that are interested in this. I, myself, was a police officer before joining the Border Patrol. The Border Patrol is very different work from much other law enforcement work, and it has been an area that we have struggled to increase our number of women. But, we are working on that. I think we are making strides in that area, so that we have a more diverse workforce.

Chairman JOHNSON. Senator Ernst.

OPENING STATEMENT OF SENATOR ERNST

Senator ERNST. Thank you, Mr. Chairman. And, thank you both for being here, today. We appreciate your service to our Nation very much.

I am encouraged by CBP's engagement with DOD to increase efforts to facilitate and expedite the hiring of our veterans as they leave the service. And, while I certainly support your efforts, as a veteran with previous experience working at a job assistance center at Fort Benning in a Transition Assistance Program (TAP), I am very much aware of the numerous—there are more than I can count—and often overlapping Federal employment programs for

veterans. They reside in so many different Departments across the Federal Government. And, I have worked, therefore, with my colleagues in the Senate, including Senator John McCain, who is the sponsor of the Border Jobs for Veterans Act of 2015, to ensure that any efforts on this front actually achieve the goal of recruiting outgoing servicemembers for positions like yours. And, we really believe that this will help solve the fragmentation—or overlap—that we see in a number of those programs.

Can you please provide the Committee with more details about how CBP is currently engaging with our DOD to help these retiring or transitioning servicemembers?

Mr. MORGAN. Yes, ma'am. As a former—current—I guess I always consider myself a United States Marine.

Senator ERNST. Thank you.

Mr. MORGAN. This is a great program. Our human resources, obviously, they would be able to give you more details, but I can tell you they actually won an award this year for their interaction with the military counterparts. And, we are seeing extreme positive benefits. They are increasing their recruitment events across the country at military installations—and abroad.

A couple of other things they are looking at in detail—which I think is the right thing—a couple avenues of reciprocity, right? Physical fitness. You have somebody from the military. Do we really need to have them go through that again when they are already physically fit and they have already taken a physical fitness test within a certain time period? We are looking at reciprocity for a polygraph. If they have recently passed a polygraph, do we need to put them through another one? So, there are a lot of initiatives that our human resource division is looking at to increase that.

Senator MCCAIN. Could I just make a point? Right now, it takes 18 months—right?—to receive the clearance, so that you can be employed by the Border Patrol. Right?

Mr. MORGAN. Sir, it has actually improved dramatically now. They have reduced—

Senator MCCAIN. Why is it that a veteran cannot immediately be hired if that veteran has already gone through all of the screening?

Mr. MORGAN. Yes, sir, that is exactly what they are looking at. They are trying to look at all of those avenues—

Senator MCCAIN. All right. Let us do more than look at it, OK? It is outrageous. OK? Let us do it.

Senator ERNST. Yes, absolutely.

Senator MCCAIN. Sorry to interrupt my colleague.

Senator ERNST. No, you are fine, Senator McCain. I think the point is very well taken that we have a huge number of qualified personnel that are leaving the service and they are well fit to go into Border Patrol. And, they are used to the extreme lifestyles that you engage in. So, it is a great fit—and with women as well, we have a great number of phenomenal women veterans that are exiting our services, and this would be a great place for them to further their careers.

Senator CARPER. Would the Senator from Iowa yield for just one moment?

Senator ERNST. Yes.

Senator CARPER. A point of clarification. Senator McCain is right, 18 months is outrageous. You indicated it has been improved dramatically. To what extent?

Mr. MORGAN. Yes, sir. I am not sure of exact numbers, but I know that they have reduced that in half. I think we are looking at under a year right now.

Senator CARPER. Come back to us in writing, if you would, please. Thank you.

Mr. MORGAN. It has been improved.

Senator MCCAIN. Could I just engage in a colloquy for a second? If you have a veteran, who is leaving the military and who has already had the clearances, why could you not hire that person immediately?

Mr. MORGAN. Yes, sir—

Senator MCCAIN. Why would it take a year?

Mr. MORGAN. Yes, sir. And so, I think my phrase “looking at” is probably not the right word. They are actively pursuing initiatives to make that happen. And, also, actually, the vast majority of folks that we are looking at do not necessarily have the clearances—and the backgrounds they went through are not quite as extensive as some of the backgrounds that we do. But, the point is taken. And, to say “looking at” is not the right way. They are actively pursuing every opportunity where they could expedite that and give that reciprocity—for every area that they can.

Chairman JOHNSON. So, what you can take away from this hearing is, you will have support for those initiatives—and the sooner the better.

Senator CARPER. Bipartisan support.

Senator ERNST. I appreciate—

Chairman JOHNSON. Senator Ernst.

Senator ERNST. Thank you, Mr. Chairman. I appreciate the discussion, because you can see that this is a topic that we are all very passionate about. And, again, our servicemembers are a great fit for your organization. And so, we want to see active engagement. We want to see progress in this area. And, if there is a way that we can engage and do a better job at that, we need to. We need to. So, thank you. And, I would like to thank my Committee Members for engaging in that discussion as well.

Chief Morgan, I would like to go back. You acknowledged, earlier in this hearing, that a number of the UACs are released into the interior of our country, which is concerning. I have grave concerns about how our government handles those UACs once they cross the border—and I will give you a very specific example. There was a UAC named Edwin Mejia who came across the border. He went on to kill a young woman, Sarah Root, who was from Iowa. And, we learned that the Department of Health and Human Services (HHS) had lost track of him once he had been released to his brother.

Now, this gentleman has gone on to who knows where. We are uncertain where this person is. And, unfortunately, the family of Sarah Root has not been able to see justice. And, it is hard to say whether they will receive justice in their lifetimes. Sarah’s was, unfortunately, cut very short.

So, I understand the difficulty of the problem that we have, when it comes to “pull factors,” and I would like to make sure that we

are addressing those “pull factors” that will pull others into our Nation. But, I also want to take a look at those “push factors,” too—and you have identified a number of reasons out there. Drug interdiction is one. We have people consuming drugs here in the country. They are getting drugs into our country. We do have many counter-drug training centers all across the United States. One is at Camp Dodge, Iowa, for the Midwest region. Can you speak a little bit to the involvement of our Iowa National Guard and National Guards all across the country—Air and Army—and their counter-drug programs? Is that beneficial to your organization?

Mr. MORGAN. It kind of goes back to the Operation Phalanx. I think that anytime that we can leverage our National Guard and our military assets, it is a good thing. And so, where we are able to do that, it has absolutely had a positive impact.

Senator ERNST. Very good. And, that is something that you believe that we should continue to invest in?

Mr. MORGAN. Yes, ma’am. And, if you talk—I forget what sector I was in, and I was talking—actually, one of the CBP pilots was actually a National Guard pilot as well. And so, we had a really good dialogue. He actually let me fly the helicopter for a little bit. I am not sure I was supposed to say that. But, we had a really good dialogue. And, what we talked about was, he actually felt that National Guard members—he was not sure who got more out of it—the Border Patrol or actually the pilots who are participating in that, because that is about as realistic training-wise as you can get to support the Border Patrol operations. So, it truly is a win-win.

Senator ERNST. Very good. Well, I appreciate it. Thank you very much for your time here. We had a very lively discussion. But, certainly there are things that we need to do better as Congress. We need to know what those things are and how we can enable you. So, thank you very much for your time and attention this morning.

Thank you.

Chairman JOHNSON. Senator Peters.

OPENING STATEMENT OF SENATOR PETERS

Senator PETERS. Thank you, Mr. Chairman. And, thank you to both of our witnesses for your service to our country and your work. It is a difficult job that you have, and I know both of you are fairly new to your positions, but you are both also very seasoned, so you have hit the ground running. And, I thank you for that, Chief Morgan, and Deputy Chief Provost as well. We spoke a little before the hearing, and I am particularly impressed, Deputy Chief Provost, by the fact that you have spent so much time in the field. I am sure that the perspective you bring from the field will be very much appreciated at headquarters, as well as appreciated by the men and women who are in the field each and every day. So, thank you both for what you do.

Chief Morgan, I know that, as you have been diving into this job, you have been focused on making it a priority to visit patrol offices all across the country. As the Senator from Michigan, I hope that it is going to be a priority for you to get to Michigan soon as well, on the Northern border, which represents a number of unique challenges. And, certainly, in every region of the country, we can all talk about our unique challenges, but one in particular for us is the

Great Lakes environment in Michigan and the fact that we have seasons—and winter—and, in fact, as we know from previous hearings, talking about protecting the maritime environment—and we have heard from CBP as well as the U.S. Coast Guard—when you have a thick ice cover, you can then walk across large parts of that border. The Coast Guard ships—even if they have ice breakers—are not going to be able to have that kind of monitoring system, so there are some unique challenges for you. And, you will learn—I am sure you are aware of it already, but you will learn more about that when you go to Michigan.

I am going to ask you a direct question. Are you planning on doing that soon?

Mr. MORGAN. Yes, sir.

Senator PETERS. Well, good. Good. It would be good to go in the winter when you see the ice, itself, to get a sense of some of those challenges.

The other thing that I wanted to pick up on, too, just briefly—and to pick up on both Senator Baldwin and Senator Booker's concerns—because, certainly, I hear those concerns in my community as well. As you know, Michigan is a very diverse State. We have a larger Latino population, but, particularly, a large Arab-American, Muslim-American community. There are some real concerns that I have heard as well from folks who are fearful about what the future may hold for them. It is a real concern that we need to deal with.

But, I have also heard from my stakeholders in this debate, from Southeast Michigan, around Detroit, where we have very large concentrations of folks from all over the world. And, they have also been very appreciative, though, of the Border Patrol and the close communication that they have with the local sector chief there. These meetings, I understand, have gone a long way in building trust. There have been some very positive things that have come out of that. And so, they asked me to encourage you to continue that kind of open dialogue and perhaps to get some feedback as you are starting in this position. How do you think that kind of communication is continuing with sector chiefs—and are there other things that you would like to see that we can go further in?

Mr. MORGAN. Yes, sir, absolutely. In fact, back at headquarters, we are actually starting a new unit, Strategic Communications. It is really all things communications, both internal and external. There is a great phrase, right? "It is harder to hate up close." We have to get out there. Our leadership has to get out there. I have gone around, again, to 11 sectors and many stations. And, the PACs that I have talked to that are out there and that are leading the way—the agents that are out there. It is not just the leadership. You go there, and it is the individual relationships that the agents have with the ranchers and with the community. They go so far in helping that perspective and really bringing everybody together.

So, the more we talk, the more that we can be involved. It is a positive thing, and I have encouraged that from day one—and will continue to encourage that.

Senator PETERS. Well, that is wonderful to hear. And, if I may, we could be involved when you come to Michigan. Let us know

when you are there. Perhaps, we could assist in connecting you with some groups of individuals who have concerns and would love to have the opportunity to meet you personally and to have a discussion about some of their experiences. If we could facilitate that, we certainly would appreciate that.

Mr. MORGAN. Yes, sir. And, I think those have been some of the most informed discussions I have had—sitting down and breaking bread with the ranchers and talking to the community, absolutely. So, we will absolutely do that.

Senator PETERS. Great. Well, I appreciate that.

I also want to pick up on—Senator Ayotte talked about the Northern Border Security Review Act, which I worked on with her, Senator Heitkamp, and Chairman Johnson to pass. It is now through both the House and the Senate. And, Chief Morgan, you mentioned some aspects of what we are concerned about in making sure the resources are being appropriately allocated, both to the Southern border and to the Northern border. You talked about the Northern border strategy and how we have to have a threat-based approach and look at that and not just the numbers. And so, I would like you to just speak to that a little bit more—dive in a little bit deeper. And, the fact that I know you have resource constraints—you have to be in both places. You have long borders. The Northern border is considerably longer than the border we have in the South. How is that being done now—and your idea that we need to be more focused on threat-based issues? How do you see that changing? And, is there anything we need to do here, at the Congressional level, to help you make those kinds of informed decisions that are going to ensure we have proper resources, both in the South and in the North?

Mr. MORGAN. Yes, sir. So, there are a couple of things going on right now. So, there is one initiative we have, called the Capability Gap Analysis Process (CGAP). Basically, what that is—it is a pretty decent process that we are going through that should tell us where our resources are needed—regardless of only numbers. We are really, again, looking at it in a holistic way.

We also are doing the same with personnel and Personal Radiation Detectors (PRDs). It is, again, a system to look at personnel needs on a series of factors.

As I am reviewing that, though, the challenges that I have with that are it is really—I find those systems to be a little bit too focused on the activity base—meaning numbers. And so, I am asking questions about those to make sure that we are pushing the threat in there, because somehow—again, I use the analogy of the 100,000 6-year-olds and 100,000 drug dealers that we get. The way we measure that right now, the output is the same. We really need to adjust that. And, we really need to look at the “so what” factor of those numbers. And, part of that is the Northern border. So, if you look at that, the numbers are relatively low for apprehensions. We need to make sure that we are looking at it in a different way—we are reframing that. It is not just about numbers.

That is going to be a cultural shift for the organization, but we need to make sure that we are doing that going forward. And, I think one thing that can help here is, when we start talking about personnel, I think what we did in the past a little bit—and what

I am concerned that we should not do at the same—we talk about personnel. We are only thinking about badge toters. When we start taking a look and having a discussion about the personnel, we also need to—and I had that in my opening comments—is the kind of personnel. So, I think we need some more intelligence analysts as well to help us frame out that threat-based and intelligence-driven approach as well—so our needs are not always just Border Patrol agents. I am not saying we do not need more Border Patrol agents, but we definitely need other demographics as well.

Senator PETERS. Thank you. My time has expired. Thank you.
Chairman JOHNSON. Senator Tester.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Mr. Chairman and Mr. Ranking Member for having this hearing. Thank you both for your service. I appreciate you being here, today.

One of the problems that Customs and Border Protection has is that it was toward the bottom of the list for best places to work. You have been in 6 months as Chief. Have you initiated any kind of programs to help bring that up?

Mr. MORGAN. Yes, sir. So, the Federal Employee Viewpoint Survey (FEVS), which I think everybody is familiar with—

Senator TESTER. Right.

Mr. MORGAN. It goes out there. So, what we did was, we took that—I think that just scratches the surface. That is a single, narrow data point that we can utilize. So, what we did was we came up with this human capital survey team. We actually brought Dulutha, a company from outside, in, went out to 13 sectors, talked to 900 people from mechanics to sector chiefs, and really did a deep dive. Then we brought back leaders and even did a deeper dive to really hear what the agents are saying and what their concerns are. And so, from that, we have developed several recommendations. And, actually, I think the email is on my desk, waiting for that email to go out to the workforce to really enumerate what those recommendations are, and then how we are going to put kind of action teams together to action that.

We are also taking a look at—and part of that—I will give you an example. So, the Border Patrol Agent Pay Reform Act of 2014 (BPAPRA)—the pay, right? That is hard. The more I learn about that, the more I just shake my head. And so, what we are trying to do is influence change where we can.

I will give you one example. So, the K9—so I get in there—and the K9—I think the Border Patrol does it right. They take their dogs home. Right? They become bonded. They are together. The dog is better and the handler is better. We say, “Yes, take them home. That is a good thing.” And then, we do not pay them for the time that they spend taking care of their dogs at home. I do not think that is right. Right now, it actually takes a legislative change to get that. So, that is something we could need your help on to get changed. But, that is just one example of something within BPAPRA that we are taking a look at.

Senator TESTER. OK. Well, we have worked on the pay issue before. We can work on it again, so it is not a problem.

As you look at the overall structure, do you believe that the top management compared to the folks on the ground—that you have the right ratios?

Mr. MORGAN. I am hesitant to use the word “taking a look at,” but, again—4 months—I am taking a look at that. I have talked to the union about that as well. They have echoed their concerns about that ratio. So, I am collecting data on that.

Senator TESTER. OK. And so, we talked a little bit about staffing on the Northern border. And, I think the process that you go through to hire folks can be pretty long and pretty cumbersome. Do you have any recommendations to expedite that process?

Mr. MORGAN. I think that really probably is something that we really need to bring back to our human resource people to give you the details. I can tell you they have done an incredible job. They have cut that in half. They have developed—

Senator TESTER. They have cut the time in half already?

Mr. MORGAN. Yes, sir. One example is, they developed these hiring hubs, so instead of going to five different locations to do all of these, you go to one spot and you knock out like six steps in the process. So, my suggestion is, we need to do more of that—and continue that.

Senator TESTER. OK.

Mr. MORGAN. We need to look at stuff, like the military, and look at where we can have reciprocity for polygraphs, physicals, and stuff like that.

Senator TESTER. Perfect.

Mr. MORGAN. And, another thing that I would say is, I think the best recruiter for a United States Border Patrol Agent is a United States Border Patrol Agent.

Senator TESTER. I agree with that.

Mr. MORGAN. So, I am dedicated to making sure—if you look in the past, the Border Patrol did that, and they did a darn good job of that.

Senator TESTER. Yes.

Mr. MORGAN. So, I am dedicated to making sure that we are allocating more resources—Border Patrol agents—to hire Border Patrol agents.

Senator TESTER. All right. So, you have Senator Heitkamp, myself, and a number of people on the Northern border here. In North Dakota and Montana—I do not know if it is true in other places—we have a hard time keeping folks. It is the best place in the world to live. It is just that people do not know that. And so, the question is: When you come to recruit, do you have a plan to recruit in some of those more frontier areas where you are not going to be able to go to the opera or see a professional football game in that region but, by God, you are going to be able to go shoot a pretty good size antelope and go fishing on some pretty good streams? Do you have a recruitment plan for those areas?

Mr. MORGAN. One will be, whenever this job ends, I think I may move up there after my tour.

Senator TESTER. We will put you to work if you do.

Mr. MORGAN. I agree with everything you said, sir. Yes, so we are working with the Office of Human Resources Management on

where we can get better focused recruitment events and where we should be going.

Senator TESTER. Can I make a suggestion? You have a ton of small schools—and big schools by Montana and North Dakota standards—on that Northern border. A lot of people do not know about the career opportunities you have in Customs and Border Protection. And, quite frankly, if you were able to send and get a hold of those counselors and even make appearances, you are going to get people that not only live there, but want to live there, to do the job that you do. And, like you said, if you can have other people that wear the uniform go up and talk to these kids about the opportunities, I think you would be quite successful. In States like Montana, we serve in the military at a higher rate than just about any other State, in terms of percentage per capita. North Dakota is probably ahead of us. So, at any rate, it solves that problem. So, that is just a suggestion.

Operation Stonegarden grants—we talked a little bit about this yesterday. You talked about how important they are. How deficient is the Operation Stonegarden grant budget right now, in your opinion? Is it 25 percent less than it should be? Is it about where it needs to be? Is it too high?

Mr. MORGAN. I do not know. I have not done a deep enough dive. I can say, though, when I have gone out to every single sector, on the Southern and Northern borders, it is just resounding, what I hear from the chiefs and the sheriffs that are participating in that program. They are like, “More.” So, I need to do a deeper dive for me to be able to personally tell you that. But, what I am hearing from the sector chiefs and what I am hearing from the law enforcement chiefs and sheriffs that are involved in the program, it is a great program and they want more.

Senator TESTER. OK. Another question along those same lines, because you have farmers and ranchers that live on that Northern border that know that property like the back—and, in fact, they do know it as good as the back of their hand. Do you have—does your agency have an outreach program to them, to make sure that they are on board? And, I can give you an example. Ten years ago, when I got this job, we went up to the Northern border, and there was not a very good relationship. That has changed over the last 10 years. Is there outreach being done to those farmers and ranchers, to let them know that, first they are appreciated, and, second, they can be the eyes and ears to help you out?

Mr. MORGAN. From my perspective, from what I have seen, I can absolutely say yes. I have gone in there, and I have seen the agents that are on the line and the relationships they have with those folks—with those landowners and ranchers.

Senator TESTER. OK. Good.

Mr. MORGAN. I mean, I have seen it, firsthand. Is there always room for improvement? Sure, absolutely. And, we are also doing citizens’ academy type of things as well. We are bringing people in. But, yes, sir, I think that is happening.

Senator TESTER. Super. Well, just in closing, I would just say this: I think this Committee and the Senate Appropriations Committee are very open to making sure you have the resources you need to keep this country safe along the Northern as well as the

Southern border. We just need to have the information. And, when it comes to recruitment and when it comes to whether we have the technological manpower resources, we have to have that information. And, it has to be good information. Otherwise, we will make bad decisions. So, I do not know what you are allowed to do, but do what you can do, so people know what the challenges are on both borders.

Thank you.

Chairman JOHNSON. Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Thank you both, again, for all of the ongoing service that you have had for a very long time and for what you are continuing to do. I have a whole series of questions on a multitude of different issues, and I will just try to get through as many as I can.

Chief, you have been there a whopping 6 months now, and you have obviously made a lot of progress and dug in a lot. And, you are looking at a lot of things at this point, and we appreciate that very much.

Before you came in—about 5 months before—in January of this year, the Inspector General (IG) put out a report on the Special Operations Group program. It is a program that was budgeted \$8 million. It actually came in at \$33 million. And, the Inspector General came back and said that there are no metrics that are attached to it—or oversight measures—for the Special Operations Group. Are you familiar with that report? Again, it predated your leadership there. Are you familiar with that report? If you are, can you comment on it? And, if you are not, can you follow up on it and what progress is being made there?

Mr. MORGAN. I am not. And, I will follow up.

Senator LANKFORD. OK. Fair enough on that.

In your statement that you put in, you made a comment—it was kind of an offhand comment, quite frankly, but it was interesting. You mentioned voluntary return (VR), and then you put a comma, “the least effective and efficient consequence.” It is just kind of an offhand comment about voluntary return. Can you give me additional detail about that?

Mr. MORGAN. So, voluntary return—if you look back in time, I mean, basically, it was just that. We would apprehend somebody at the border, and we would just say, “OK, go back.” And, what that caused—we were agents back in the day.

Ms. PROVOST. Yes.

Mr. MORGAN. You can talk to it better than I can. Back in the day, what that meant was, an agent could actually end up apprehending the same person three or four times in the same shift, because there were no consequences.

Senator LANKFORD. Right.

Mr. MORGAN. There was no deterrence. So, to do a VR today just does not make sense.

Senator LANKFORD. So, what is the alternative there? And, is that something we need to fix in statute?

Mr. MORGAN. So, I think, statutorily, I guess we could have a dialogue to just remove that as an option in its entirety.

Senator LANKFORD. It has been a concern, and there has been a lot of dialogue about just what you just said. If you say voluntary return, someone is picked up at the border, and they say voluntary return—they know the term. As you mentioned before, they are coached on what terms to use—whether that be fear or asylum—all of the different statements—or voluntary return. They are able to cross right back over the border again, come back, move a mile down the road, come back again, and get picked up again. How many times do you think that should be allowed? Because, you know you are dealing with a person that is aware there is a border there. They are aware that they have crossed the border illegally. And, should they be able to do that 20 times? Five times? Three times?

Mr. MORGAN. So, from the United States Border Patrol perspective, not ever. Right? The first time you cross, there should be some type of consequence that leads to a deterrence.

Senator LANKFORD. OK. Thank you.

Do you have any other comment about that, Ms. Provost?

Ms. PROVOST. No. I would just echo really what the Chief was saying in relation to that. And, we do now utilize much more expedited removal, which has been a huge benefit for us—having that ability, over the last decade.

Senator LANKFORD. Terrific. You both mentioned at the beginning of this, in the opening testimonies, your concern about terrorism and terrorist activities or materials moving across the border—as well as drugs. We have talked quite a bit about the movement of drug smuggling as well as human smuggling. You mentioned some of the things about terrorism in your opening statements. Can you give us any additional detail about that?

Mr. MORGAN. It is challenging in an unclassified setting, but I think, again, I will go back to that approach and why it is so important to take that threat-based, intelligence-driven approach. Again, we spend a lot of time talking about UACs and family units. Again, I will go back. I do not see that 6-year-old on the road at midnight as a national security threat. But, I will go to the Northern border, for example. It is open source intelligence. We know that there are individuals in Canada that are self-radicalized. Right? We know that. We know that there are connections to international terrorist organizations. That is open source intelligence. So, it is that type of threat that concerns me.

And so, when we are dealing with our metrics and when we are dealing with our strategies—again, not only do we have to talk about the numbers—that is always going to be a component—but, again, we need to focus on that threat. And, what I can say is, there are threats out there that concern me.

Senator LANKFORD. OK. So, let me dig a little bit deeper. You have been asked a couple of times about what you need. And, you have mentioned partnerships and cooperation. Can I take that down to the next level? What does partnership mean for you? Is that additional personnel to be able to form that partnership and relationship? Is that collocating in situations? Is that materials? What is needed when you talk about additional partnerships and cooperation?

Mr. MORGAN. All of that.

Senator LANKFORD. OK. I know Senator Portman had mentioned to you just his request. Let me add to it as well. Can you submit back to us in writing, “For us to be able to do our job effectively, we think we need this?” That gives us greater clarity. Because, even when we talk about technology needs, there has been a tremendous amount of experimentation with technology. There has been a lot of variety, for instance, in aviation—whether that has been unmanned or whether it is the multiple platforms for helicopter, aircraft, and fixed-wing, trying to figure out which one is the most effective. Do we need to maintain all of these? Is a certain one more effective than another one? All of those things come into it as we try to make decisions on this Committee about—not just that we need to help you with partnerships, but the mechanics of what that means. So, the more detail we can get, the better.

And, let me just back up to technology and aircraft, because there has been a lot of debate—whether it is fixed-wing, whether it is rotor, or whether it is unmanned. What is the most effective, most efficient, and least costly to get the best bang for the buck—and then other technology pieces that are actually getting you a good return now? Because, if we go back 4 years ago, we were spending \$1 billion on a program that did not work. What technology is working?

Mr. MORGAN. Yes, sir. I agree with everything you just said, and, I think—I do not need to say it—that it is so unique from sector to sector, so one size does not fit all.

Senator LANKFORD. Right.

Mr. MORGAN. So, like you just talked about, I mean, there could be areas where rotor-wing aircraft is not effective—manned, but yet a small unmanned platform would be more effective in an area. So, it is a complicated process to determine. To be smart about it, to use the money wisely, and to figure out what assets we need where, that is part of that CGAP process that I was talking about—the capabilities initiative that we are doing. And, we are well under way with that, and I think it is going to be able to provide this Committee with exactly that information.

But, I can tell you, we do need additional stuff. We need additional assets, the operational assets—the horses, the K9s, etc.—more technology, yes, and infrastructure, yes. On the bodies, it is a little tougher to say, right now, exactly what we need as well as how much and where—and we are working through that.

Senator LANKFORD. OK, terrific. That report will be finalized when?

Mr. MORGAN. I am not sure.

Senator LANKFORD. OK. Give me a guess. A year? 10 years?

Mr. MORGAN. FY 2017.

Senator LANKFORD. OK. That helps. Can I also ask you to take sustainment into consideration when you do that as well? Because, there is a lot of conversation about how this is what we need. The next question is: How many people does it take to maintain that? What is the long-term sustainment of that and to be able to keep that a part of the ongoing conversation?

Again, I appreciate what you are doing. And, thank you for the extra 20 seconds, Mr. Chairman.

Chairman JOHNSON. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you, Mr. Chairman. And, thank you to both of you. Earlier this month, I visited the Portal POE. I have talked about Portal a lot in this Committee, because we are particularly challenged in those areas—whether it is the Grand Forks Sector or the Havre Sector—in terms of personnel. And, it is absolutely critical that we have an employment plan. And, I want to reiterate what Senator Tester already said. I think we can find some good folks right there.

Senator Lankford and I held a hearing where we talked about employment regarding the recruitment of millennials. And, your personnel officer from DHS came with a new burst of energy. And so, we are looking forward to seeing her report and what she is doing—some really creative ideas.

But, I do want to point out, again, concerns about the Northern border. The bill that will inevitably get signed into law by the President—hopefully, in the next couple of weeks—will put demands on you to inform the public as well as inform this Committee and Congress about what those threats are and what it takes, in terms of personnel, equipment, and technology, to basically meet those threats. And so, I just want to, once again, encourage you to not only meet the deadline in the bill, but, maybe, bring it in a little early, because, as you can see, there is a great deal of concern and a great deal of publicity now about what is happening on the Northern border.

So, with that said, I want to talk about Canada. We had a great conversation, I think, yesterday, but, I think, for the record here, if you would reiterate the kinds of things that you are doing with your counterparts in Canada that can, in fact, expand personnel and provide more situational awareness. We have a huge advantage on the Northern border that we do not have on the Southern border, which is a trusted and long-term partner, in terms of keeping the border secure. So, if you could just give us a rundown on your work with the Canadian officials, that would be great.

Mr. MORGAN. Yes, ma'am. So, there are a couple of different issues out there. The International Border Enforcement Team (IBET) that is there. It is a mix of Canadian law enforcement and U.S. forces, mainly Border Patrol. There are a few other entities that are in there. It is a great initiative. It is part of the quintessential task force environment—and you are right, they are trusted allies and it has served to be effective. We need to continue to expand on that.

When it comes to national security intelligence information, that is probably an area that we need to continue to expand on. The communication flow can be a little bit cumbersome at times, in that it has to go up to more of a national level, and it does not always get down to the folks on the line as expeditiously as it should. But, we recognize that—both sides recognize that—and we are working towards that.

We are looking for more opportunities where we can actually do integrated operations, right? More of that. It is not just about sharing information and intelligence. It is actually taking that, analyzing that, and then actioning that into really true counter-network operations—right?—across the border—and being able to do

more of that. We are doing some of that. I think we should and can do more of that going forward. Those are just a couple of the efforts we are doing.

Senator HEITKAMP. I want to reiterate what you were talking about earlier, which is that there are tasks that are being performed by guys and gals wearing badges that really could be done by other professionals—especially as it relates to the UACs issue. And so, I just really encourage you, when you are looking at this report, to look very closely at those tasks that the guys in green should be performing and where we can transfer out.

Now, I am going to be really specific on this, but it does concern me. One of the biggest concerns from the Border Patrol agents I talked to when I was at Portal is communications. Many times on the border, you will get bounced off of a Canadian tower, you will get bounced off of a radio tower in North Dakota, and they are out there with no cell coverage and no radio coverage. That is not a formula for success—especially when they are going to have to rely on the sheriff to give them backup if they encounter an event.

And so, can you please look into communications on the Northern border, especially in remote locations? I think we owe it to those people, who put on a badge and walk out the door every day—their family not knowing whether they are going to come back. We owe it to them to give them the best equipment.

I want to just turn a little bit to the Southern border, because I have spent a fair amount of time down there. And, Chief, you will probably laugh at this, but can you paint your cars a different color than white? You did? But, I am serious about this, because I think that, obviously—not that you should be clandestine, but, if you are a spotter on a hill in Mexico, and you are walking some drugs across the border, and you see a white truck coming on the border, it is pretty easy to radio down to the guys who are carrying the contraband and tell them to avoid this or avoid that. I mean, I do think there is some advantage to having a vehicle that is less likely to be spotted. And, we know this happens. They are up on the hill. Right? They are watching you every minute, especially if they are moving product of any kind of value.

And so, your ability to move in a way and respond to it in a way, without early detection, can be enormously valuable. And so, it is just a thought. And, I am passing it on from the folks on the Southern border who look at this and say that this is a problem.

And, I want to encourage you to continue—and I know you have, and I am grateful for that—your ongoing outreach to the ranchers, both on the Southern border and on the Northern border. “See something, say something.” We have to create relationships where people are all in this together. And, I think you were down—you visited with the ranchers on the Southern border. There are good reports coming back from that, Chief, so thank you. Keep up the dialogue and keep up the open communication. Those guys know a lot. They have been on that land. As Tester said, they know their land like the back of their hand. And so, thank you—both of you—for putting on that uniform every day, representing all of us and doing some of the toughest work that is done in America. I really appreciate it.

Ms. PROVOST. Thank you.

Chairman JOHNSON. Thank you, Senator Heitkamp.

I really just have two further lines of questioning. One has to do with the incentives. We talked earlier about the fact that we have no expedited removal for kids and family units from Central America. An NTA, just creates that incentive. If you get in the country, you stay. But, I want to talk about other incentives as well.

What about sanctuary cities? To what extent does that, again, incentivize people to come here? Because, they know that, once they are holing up there, they are not going to be deported. Do either of you want to speak to that?

Mr. MORGAN. Sure. I think, probably, from the perspective of the United States Border Patrol, when we look at those factors, I probably do not really look beyond the fact of an NTA.

Chairman JOHNSON. OK. More of a question for the U.S. Immigration and Customs Enforcement (ICE), OK.

Mr. MORGAN. Yes, sir.

Chairman JOHNSON. Let me talk about the ways that the smugglers—the human traffickers, really—defeat Border Patrol—for example, using minors and overloading the system. When we were down traveling with one of the sheriffs, the claim was that we do not prosecute unless it is at least 500 pounds of marijuana. Talk a little bit about some of those—what end up being incentives—or just impediments to, actually, enforcement.

Mr. MORGAN. Yes, sir. Thresholds are always an issue. Each jurisdiction sets their own threshold for a variety of reasons—that they have limitations—personnel and funding as well. You can see, from one jurisdiction to another, different thresholds for, basically, the same activity—the same amount. It can get frustrating. I think that can actually serve as a morale challenge for the rank-and-file that are out there risking their lives every single day—and then, something not prosecuted—what can appear to be an arbitrary threshold. That is a challenge.

Chairman JOHNSON. What about the use of minors? What can possibly be done about that? Or, what do we try and do about it?

Ms. PROVOST. Well, is that in relation to the amount of UACs you are talking about, sir, that are coming in?

Chairman JOHNSON. No, I am actually talking about—

Ms. PROVOST. Or, are you talking about—

Chairman JOHNSON [continuing]. Minors used as drug runners.

Ms. PROVOST [continuing]. Using them to smuggle? Yes, and that has been a tactic that they have used for as long as I have been in the Border Patrol, because they do know that, at least criminally, they are not going to receive a prosecution because they are minors. So, that is a tactic that the drug-trafficking organizations (DTOs) and alien-smuggling organizations (ASOs), have used for as long as I can remember—specifically, for that reason—because, if they are a minor, they are not going to receive a prosecution. That is a difficult one for us. It is a tactic that we pay attention to. I would not say that it has increased. It is a common practice across the board, when it comes to bringing groups in—local guides, as we call them.

Chairman JOHNSON. It works, unfortunately.

Chief, you talked about morale. Let us talk a little about some, of the morale issues I hear about—the policy, in terms of “got-

aways,” where agents on the ground level—they have to call in a supervisor if they see more than 20 “got-aways,” and then they are pulled off of the line. I do not know all of the ramifications, but it sounds like it creates a huge incentive not to report “got-aways” of more than 20 people. Can you speak to that?

Mr. MORGAN. Yes, sir. At this point, I have a challenge really with several of the measures and metrics we are using—not just the impact it has on the agents—the perception and even reality on that, but is it really capturing what it should be capturing? And so, we are—unfortunately, I am going to use the phrase again. I am taking a look at that from a holistic approach. But, yes, I have heard some of those same concerns.

Chairman JOHNSON. Deputy Chief Provost, when I had the Chief in my office, we talked—as I have talked to the United States Secret Service (USSS), anybody—about working on a continuous shift basis—I come from the plastics industry. When you have a continuous shift—my way of thinking—you need four shifts. And, we do not have that in CBP. What is your basic viewpoint of how we staff in the areas of Border Patrol that are on a continuous shift basis? Because, right now, you use three. You use overtime. It is just not as effective. In the private sector, you do not do that. Why do we do that in government?

Ms. PROVOST. So, for the most part, we use three shifts. There are, however, areas where we do have four shifts, depending upon the location and what works best. The individual sector and the chief takes into consideration how operations work best and the resourcing that they have. As we know, our men and women are also a resource that we utilize. The fact that we have really established that Border Patrol agents working a 10-hour day helps with the coverage for the shift changes—but there are areas where the remoteness of the border has an impact, and we run four shifts in some of those locations, so that our agents have—

Chairman JOHNSON. Do you see a difference in morale where you actually operate the four shifts? Do you find that that works better for you?

Ms. PROVOST. In my conversations with agents, I have seen both sides of the fence, I guess, on that. Some agents would prefer four shifts and some agents would prefer three. So, we try to look at it as an aspect of what makes sense for that specific area of operations.

Chairman JOHNSON. OK. I will ask that you work with me on that—take a look at it. I think it is something that is well worth looking into.

In your joint testimony, I am concerned about this: Your losses are currently outpacing gains, creating a downward staffing trend. And, we talked about a number of reasons for that—something we really want to work with you on. In my final minute here, I just want to address fencing, because, again, fencing works. A better wall works. And, it also will help relieve the personnel issues, too.

We did pass the Secure Fence Act of 2006. I do not think we have built the type of fencing that is actually working. I am not suggesting 1,700 miles, but I think we need better fencing in more areas. And, I just kind of want a quick comment on that.

Mr. MORGAN. Yes, sir, I agree. I can give you a quick example off of the top of my head. When I went and visited the San Diego Sector—that is an area along the stretch where, for a few miles, we actually have a primary fence and a secondary pedestrian fence. Not only did that work to stem the flow elsewhere, but, by doing so, the chief told me, at that point, he was actually able to take 100 agents and put them elsewhere, because it did not require that level of deployment there.

I went to another sector, where they actually told me that, at one point, the free market across on the United States side had all but dried up—an area where they put fencing up and the flow had all but stopped. Now, it was a thriving shopping center once again. So, it works on multiple levels—not just on the flow and our ability to do our job, but it also has other aspects.

So, do we need more fencing? Yes. Does it work? Yes. Do we need it everywhere? No. Is it the sole answer? No. It is part of an overall multilayered strategy. It is always kind of tongue in cheek—the fence is great, but if we do not have access roads to get to the fence, it is not as good.

Chairman JOHNSON. The Deputy Chief mentioned that.

Mr. MORGAN. Right.

Chairman JOHNSON. So, I hope you will work with this Committee, as we move forward, to identify where we do need additional fencing, how it should be designed, and how you can have the roads in between the fencing, so that we can, literally, relieve the pressure, from the standpoint of staffing.

I guess the Ranking Member—I will continue then. Again, I want to go back to incentives, because—oh, he is back. I will let you go. Time is short.

Senator CARPER. Thank you so much. I have a couple of questions for the record. I am going to ask each of you—not now—about leadership, what led you to follow this path, and how we can encourage more women to follow the path that you have set out on.

I have just a yes or no question. I think one of the questions that was asked was about fencing or walls. Where it is appropriate, sure, we need that. We want to make sure that it is done thoughtfully and in ways that it can actually contribute.

You may have mentioned, Chief Morgan—I think somebody mentioned San Diego—the use of the walls there. We were able to take 100 Border Patrol officers, who otherwise would be doing that, and then deploy them in other ways. That is smart. But, what would also be smart is—all of these Border Patrol agents that are taking care of these kids, like day-care operators. That is not smart. And, one of the ways to reduce the need for doing that is for us to do our part to help make sure that all of those little kids and their bigger brothers and sisters actually have a future in Honduras, Guatemala, and El Salvador. That is a part of the solution as well.

I think immigration reform is part of the solution, including the ability for workers in Honduras, Guatemala, and El Salvador to come up here, work for a while, go home unimpeded, and come back from time to time. I think that is part of it.

I think technology is a part of it. We talked about the folks—the spotters on top of the hill. The idea of sending up unpiloted vehicles to be able to fly up there—identify these guys—if we want to

bring in like some kind of direct fire on those, you can use that kind of technology, whatever. Figure out what works and do more of that.

Part of what we are asking you to do is to tell us what you need more of and less off—and I would just hope that, at the end of the day, it actually includes the other side of the equation. The lesson we learned from Mexico—we used to have tons of people coming up here from Mexico. Most of the folks who came here for years were from Mexico. They do not come anymore. They are more going back into Mexico. There is a reason for that, and the reason for that is, frankly, they have a future now. They have hope. They have a solid middle class. And, we have been, I think, helpful in helping to ensure that happens in ways that benefit them—and I think us as well.

Does what I have said make any sense? If you say no, I will leave. Does any of that make sense?

Mr. MORGAN. Everything you said made sense, sir.

Senator CARPER. All right. Deputy Chief Provost.

Ms. PROVOST. Yes, I concur with you.

Senator CARPER. OK. Thank you. I want to conclude, if I can, just by thanking you both for being here. Thank you for your leadership. I said to the Chairman that you are a breath of fresh air. We very much appreciate your leadership and the way you approach this.

As the Chairman mentioned earlier on, this is, I think, probably, the last hearing where I will be the Ranking Member—just to say how much I have enjoyed working with him and all of our colleagues. I am not going to get off of the Committee. I will still be, I guess, the senior Democrat, but I will be the Ranking Member on the Senate Committee on the Environment and Public Works (EPW). And, I look forward to being very active in supporting all of my colleagues on this Committee. But, I want to acknowledge the help of, certainly, our Minority staff, led by Gabrielle Batkin and led by John Kilvington. But, I also want to acknowledge the hard work of the Chairman and the folks that he has helped lead. I cannot mention them all, but I want to thank each of my staff—and our staff and his staff—for the way that they worked together—are still working together, even as we gather here, today—still working together to try to get things done before we adjourn.

I particularly want to thank Chris Hixon. I want to thank Gabby D'Adamo and Patrick Bailey. I want to thank David Luckey, who has left. He left us, I think, just a week or two ago, and came and said goodbye. I also want to thank Brooke Ericson, David Brewer, and all of the other folks on the Chairman's staff who have contributed in this Congress and for our country.

Finally, I want to thank Laura Kilbride, the best third baseman I have seen on a Congressional softball team in all of the years I have been here. She has an arm like a rifle, and as long as she is on our team, we are in good shape. But, the Chief Clerk and her team, they keep our Committee running smoothly and efficiently. It has been a real joy, and I think we have done good work together. And, I look forward to doing a whole lot more.

Thank you.

Chairman JOHNSON. Thank you, Senator Carper. It would be nice if everybody had nice simple names to pronounce, like Carper. [Laughter.]

But, again, I do want to thank both of our witnesses for your many years of service to this Nation—it is truly appreciated—for your thoughtful testimonies, and your thoughtful answers to our questions. And, I truly look forward to working with you, certainly in the next Congress, and over the next few years. So, again, thank you.

That being said, the hearing record will remain open for 15 days until December 15 at 5 p.m. for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 12:05 p.m., the Committee was adjourned.]

A P P E N D I X

Opening Statement of Chairman Johnson “Initial Observations of the New Leadership at the U.S. Border Patrol” Wednesday, November 30, 2016

As submitted for the record:

Today’s hearing marks the 19th hearing the committee has convened related to the security of our borders this Congress. In my opening statement at the first of these hearings, I acknowledged that securing our borders would be incredibly complex. I then promised to develop information and build a strong record discussing these challenges. Over the last 23 months, we have done just that.

The committee convened hearings on the southwest, northern and maritime borders. We held hearings on the visa waiver and refugee resettlement programs. We considered biometric entry/exit and infrastructure and technology needs across our borders. We discussed the challenges of transnational crime along the border, convened four field hearings on the opioid epidemic sweeping this country, and explored how America’s insatiable demand for drugs drives our borders’ insecurity. We brought in witnesses from both the administration and the front line, including the Border Patrol union, local sheriffs, and landowners who are forced to deal with the challenges that our insecure borders present every day in their communities. And we focused on multiple pull factors, such as wage disparities, Obama administration policies, and the unintended consequences of laws created by Congress that encourage people to embark on the dangerous journey from Central America to the United States.

Today, we continue the process of laying out the reality of our insecure borders, this time hearing from the U.S. Border Patrol’s newest leaders. Chief Morgan is the first person from outside the agency to be appointed to the position of chief of the U.S. Border Patrol. Chief Morgan has more than 20 years of federal law enforcement experience with the Federal Bureau of Investigation, where he served in numerous leadership roles. Deputy Chief Provost is the first woman in the Border Patrol’s 92-year history to be promoted to deputy chief, the second highest position in the U.S. Border Patrol. Deputy Chief Provost started her career as a field agent in Douglas, Arizona, and also has more than 20 years of federal law enforcement experience.

Chief Morgan and Deputy Chief Provost will present their observations on the agency and provide their perspective on conditions at our borders. We will discuss the recent surge in apprehensions along the southwest border and how the need to dedicate extensive resources to this humanitarian mission affects the agency’s other missions, such as its national security mission. Finally, we will examine ways this committee and the Border Patrol can work together to meet the challenges of an ever-changing border environment.

I thank both witnesses for being here today, and I look forward to your testimony.

Statement of Ranking Member Tom Carper
“Initial Observations of the New Leadership at the U.S. Border Patrol”
November 30, 2016

As prepared for delivery:

I want to begin this morning by thanking our witnesses for being here today and for their leadership of the Border Patrol. Chief Morgan, Deputy Chief Provost – thank you for your service. Your job is incredibly important, and also incredibly challenging. I’ve always been impressed with the men and women from the Border Patrol who I’ve met on my many trips to the border. I still am. Border security has always been an important issue for this Committee, and it has commanded particular attention during my time as Chairman and Ranking Member. We all want stronger borders, and we all want to keep terrorists out of this country. But we need to remain clear eyed about the real risks and the real solutions.

Unfortunately, during this past campaign season, immigrants and refugees were too often unfairly attacked as a grave threat to our country. We heard a lot about walls and deportations, and not enough about addressing the underlying causes of the real immigration challenges that we face. As a result, many immigrants who have come to the United States from all corners of the globe are anxious that they will no longer be able to care for their families and contribute to our great country. This includes the ‘Dreamers’ who were brought here as children, but are now fearful of being ripped from jobs and schools and deported to countries they may not even remember.

We do not strengthen our country by ignoring the contributions of immigrants or by turning our back on refugees. Helping vulnerable people is part of our moral fabric as a country. Scripture teaches us that we have a moral imperative to the ‘least of these’ in our society and to treat other people the way we want to be treated. Doing so also contributes directly to our economic strength. For generations, our open and diverse society has attracted immigrants of all backgrounds who have continually enriched our country and helped us grow and prosper. The deeply troubling attack this week at Ohio State University, where I was once a Navy ROTC midshipman, weighs heavily on the minds of many of us across this country. It reminds us that we must continue to be eternally vigilant. We must work hard to meet both our security challenges as a nation and our moral imperatives. Indeed, I believe we can and must do both.

Before I highlight some of the tools that I believe can help better secure our borders, I think it’s important to first recognize the significant strides we have already made along our southwestern border. For years, we worried about large scale undocumented migration from Mexico. Now, experts tell us that net migration from Mexico is less than zero. In other words, more Mexican nationals are migrating from the United States back to Mexico than are arriving here from Mexico. The men and women at Customs and Border Protection deserve much of the credit for this turn around, but perhaps the biggest factor for the change is the strengthening Mexican economy. That is an important thing to keep in mind as we talk about whether to reopen trade agreements in the region.

The surge we're seeing today along our southwestern border right now is a different challenge, and mostly a humanitarian one. Thousands of children and families from El Salvador, Guatemala, and Honduras – known as the Northern Triangle – are fleeing extreme violence and poverty in their home countries and seeking asylum in the United States. Haitian migrants, including many who had been living and working in Brazil until its recent economic decline, are another new concern. Most of these migrants are turning themselves in to agents – not trying to evade them – so it's unlikely that we'll fix these current challenges with a wall or new Border Patrol agents. Instead, we must address the root causes of this migration by helping the governments of El Salvador, Guatemala, and Honduras improve the desperate conditions too many of their citizens face every day. I traveled to the Northern Triangle once again this past October, and saw real efforts being made by the governments there to address the extreme poverty, violence, and hopelessness that drive so many of their citizens to make the dangerous journey across Mexico to our border. Last year, Democrats and Republicans provided \$750 million to support these countries as they work to address these difficult conditions. I hope we can continue this bipartisan support. I believe it is cost effective and the right thing to do given that our addiction to drugs fuels much of the lawlessness and instability in the region.

We also have to work with our international partners to crack down on smugglers and traffickers who exploit migrants. I have been impressed, for example, with the vetted units that I have seen during my trips to the Northern Triangle, where our agents and officers work side by side with foreign officers to target and break up criminal trafficking networks. Of course, as the cartels become more sophisticated, we must also continue to evolve and take action here at home. That is why I have supported commonsense and cost-effective solutions to strengthen our border security and will continue to do so. That includes investments in advanced surveillance technologies, such as aerostats and drones, which – if used effectively – can be powerful force multipliers for our agents. It also includes some additional resources such as horses and boats, which may not be as high-tech but can provide our agents with great visibility across the border. Another commonsense solution involves fully staffing our ports of entry and making smart investments in our aging port infrastructure.

Finally, I would be remiss if I did not discuss how comprehensive immigration reform can also be a critical force multiplier. As Republican and Democratic Administration officials have testified over the years, immigration reform would create legal channels for migration and 'shrink the haystack' of unauthorized travelers so that border agents can focus on the most serious security risks. Comprehensive reform would also strengthen us economically. According to the Congressional Budget Office, it would provide a 5.4 percent boost in GDP – more than a trillion dollars – by 2033. We should all keep this in mind as we head into the next Congress.

My thanks again to both of our witnesses for being here and for your leadership during this critical time. I look forward to your testimony.



TESTIMONY OF

MARK A. MORGAN
Chief
U.S. Border Patrol

and

CARLA PROVOST
Deputy Chief
U.S. Border Patrol

U.S. Customs and Border Protection
Department of Homeland Security

BEFORE

United States Senate
Committee on Homeland Security and Governmental Affairs

ON

“Initial Observations of New Leadership at the U.S. Border Patrol”

November 30, 2016
Washington, DC

Introduction

Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee, it is a pleasure to appear before you today to discuss our initial observations of current U.S. Border Patrol (USBP) operations and challenges, and our vision for securing the U.S. border between our Nation's ports of entry (POEs).

We are deeply honored to lead the dedicated men and women of USBP who work tirelessly to protect our Nation's borders. As America's unified border agency, U.S. Customs and Border Protection (CBP) protects the United States against terrorist threats and prevents the illegal entry of people and dangerous materials into the United States, while facilitating lawful travel and trade. USBP works with our CBP, interagency, state, local, tribal, territorial, and international partners to secure the more than 6,000 miles of land border between the POEs that we share with Mexico and Canada and 2,000 miles of coastal waters surrounding the Florida Peninsula and the island of Puerto Rico.

Since the 9/11 terrorist attacks, the U.S. Government has facilitated an unprecedented deployment of personnel, technology, and infrastructure to secure our Nation's borders. The resource base built over the past two decades has enabled USBP to develop and implement an enforcement strategy and posture tailored to meet the challenges of securing a 21st century border against a variety of different threats and adversaries.

Today, USBP's enforcement strategy is threat-based and intelligence driven: identifying high-risk areas and flows, targeting our response, and deploying resources and capabilities in the most effective and efficient manner to achieve multiple security objectives, including:

- Prevent terrorists and terrorist weapons from entering the United States between the POEs through improved and focused intelligence-driven operations and enhanced operational integration, planning, and execution with law enforcement partners;
- Disrupt and degrade Transnational Criminal Organizations through targeted enforcement efforts against the highest priority threats and expanding programs that reduce smuggling and crimes associated with smuggling; and
- Manage risk through the introduction and expansion of advanced detection technology, and sophisticated tactics, techniques, and procedures.

Our adversaries deploy sophisticated strategies and often essentially run highly developed business enterprises. We must respond accordingly by continuously improving and advancing USBP's layered enforcement strategy. Among the factors we must carefully consider are: the best deployment of frontline law enforcement personnel; investments in advanced detection and surveillance technology and tactical infrastructure; the enhancement of information sharing and intelligence capabilities; the expansion of operational partnerships with federal, state, local, tribal, and international partners; investments in the sustainment of our current workforce; and developing a pipeline of highly motivated and highly qualified applicants for our frontline positions.

This approach will leverage our authorities to secure the homeland using a multi-layered and intelligence driven application of USBP resources that contributes to an improved understanding of the threat environments, enhances our ability to rapidly respond to threats, and ensures that the physical border is not our only line of defense, but rather one of many.

Our testimony today will focus on our initial observations of the U.S. Border Patrol, specifically the following efforts:

- Sustaining and building our frontline law enforcement workforce;
- Reinforcing tactical infrastructure and technology;
- Responding to Unaccompanied Alien Children;
- Expanding intelligence and international capabilities to support integrated operations; and
- Enhancing effectiveness, performance, and metrics.

Within these efforts, we discuss aspects that are working, where challenges exist, and the path forward to enhance our ability to detect and prevent threats from entering the United States.

Sustaining and Building Our Frontline Law Enforcement Workforce

The dedicated men and women of USBP are truly our greatest resource. This is not a statement made lightly. USBP agents regularly work in locations that are desolate, at times dangerous, and subject to extremes in temperature and terrain. They represent commitment and integrity for which our Nation should be both proud and grateful. Ensuring that we develop and retain a skilled and trained frontline workforce is critical to our border security mission. It requires continued and sustained investment, and thoughtful stewardship. Management of our workforce is also occurring against a backdrop of tremendous change and intense challenges. The USBP leadership is working closely with the CBP Office of Human Resources Management (HRM) to implement innovative hiring strategies, reduce attrition rates, and bolster the resilience of our workforce.

CBP's hiring process for frontline personnel is intentionally rigorous because the missions we carry out ensure the safety and security of the American people. We require applicants who demonstrate the highest degree of integrity, are physically fit, and are deeply committed to our mission. Applicants must successfully complete an entrance exam, qualifications review, interview, medical exam, drug screening, physical fitness test, polygraph examination,¹ and a background investigation. The hiring process is challenging for most applicants and a large number simply do not meet CBP's rigorous employment requirements. Moreover, competition from the military and other federal, state, and local entities that have similar recruitment needs are making it more difficult to attract sufficient numbers of suitable applicants to the law enforcement profession, including USBP's frontline positions. External factors may also affect CBP's ability to reach staffing goals. For example, cyber intrusions and vulnerabilities in Fiscal Years (FY) 2014 and FY 2015 created disruptions that halted the hiring process for as long as

¹ The *Anti-Border Corruption Act of 2010*, Pub. L. No. 111-376,

five weeks at times. CBP is aggressively addressing the spectrum of hiring challenges, but it is important to recognize that they exist and will continue to make hiring difficult.

In addition to the challenges we experience in bringing on new hires to increase our frontline workforce, CBP must also backfill positions lost through attrition. The attrition rate for Border Patrol Agents (BPA) in FY 2015 and FY 2016 was 5.5 percent and 4.3 percent, respectively. This means that CBP was required to hire approximately 1,000 new BPAs just to maintain current staffing levels. Given the current rate of BPA attrition, losses are currently outpacing gains, creating a downward staffing trend. A range of factors, including often less-than-desirable duty locations, have driven BPA attrition to the point where losses are significantly outpacing gains.

We must increase our frontline hiring capabilities and capacity if we are to sustain and improve our border enforcement posture. CBP has taken numerous steps to address frontline staffing challenges, upon which we must expand and build. For example, CBP established a Frontline Hiring Program Management Office to implement specific actions that address frontline hiring challenges. This includes a National Frontline Recruitment Command, comprised of uniformed agents and officers as well as other CBP personnel to provide support and expertise to USBP and other CBP field recruitment offices. CBP has also developed and implemented an expedited hiring process by compressing multiple processes and several months of the hiring process into a one-week timeframe and takes place in a centralized location. This expedited “hiring hubs” process resulted in a time to hire reduction of more than 60 percent, without compromising the integrity of the hiring process in any way. CBP has also enhanced its engagement with the Department of Defense (DoD) to increase our efforts to facilitate and expedite the hiring of transitioning service members and veterans. We now conduct hiring operations on military bases and installations and we offer reciprocity for multiple steps during the hiring of veterans.

Recruitment and hiring process improvements, such as opening multiple job opportunity announcements for vacancies, have proven to be effective in increasing the number of applications received for CBP frontline positions and reducing the time-to-hire. CBP was able to increase the number of Border Patrol Agent and CBP Officer applicants from approximately 40,000 in FY 2014 to over 115,000 in both FY 2015 and FY 2016. CBP is also focused on reducing attrition by exploring opportunities to utilize pay and compensation flexibilities such as special salary rates, relocation and retention incentives, tuition assistance, and student loan repayments to incentivize mission critical personnel to remain with CBP. Because mobility and assignment diversity are important to CBP’s law enforcement personnel, CBP is also exploring new ways to utilize rotational assignments and reassignment opportunities.

Our frontline agents are our most valuable resource, and we must continue to optimize our recruiting and hiring processes, and further develop initiatives to maintain the critical frontline law enforcement agents needed to accomplish CBP’s border security mission effectively and efficiently. CBP recognizes that this is not just a human resources issue; rather it is an Agency-wide challenge that requires an Agency-wide solution. Recruiting, hiring, and retention remain CBP’s top mission support priorities, and we continue to explore new and innovative ways to be an employer of choice for both existing and prospective employees.

Reinforcing Tactical Infrastructure and Technology

Thanks to Congress's support of CBP's tactical infrastructure and technology investments between the POEs, USBP can detect and interdict illegal activity, monitor evolving threat patterns, and strategically deploy assets. Furthermore, the continued deployment of tailored border surveillance technology, tactical infrastructure, and other operational assets allows CBP more flexibility to shift more officers and agents from detection duties to interdiction of illegal activities on our borders.

Tactical infrastructure is a critical element in USBP's threat-based approach to border security. Tactical infrastructure, including physical barriers, access roads, lighting, and other investments, can persistently impede illegal entry and can influence flow patterns, allowing USBP to use resources for enforcement purposes more effectively. In accordance with the *Secure Fence Act of 2006* (P.L. 109-367), CBP has deployed several different types and layers of pedestrian and vehicle fencing in locations along the Southwest border based on a risk and vulnerabilities assessment to deter and prevent unlawful border entry. Tactical fencing provides a persistent method to impede illegal cross-border activity, which offers Border Patrol agents additional time to respond to and resolve threats. The physical stature of the fence can afford agents additional cover, while preserving their ability to see potential adversaries, making physical assaults against them more difficult to carry out.

Other security infrastructure investments, such as all-weather roads ("Border Roads") and lighting, also play an important role in USBP security operations. Border Roads are generally oriented parallel to the border and provide USBP and other law enforcement partners with direct access to the border for enforcement and public safety efforts. Border lighting enhances USBP's ability to sustain situational awareness during hours of darkness, maintain a visible presence, and remove the tactical advantage of the criminal element while enhancing officer safety. Lighting is also vital to protecting the tremendous investment in existing fencing, as it creates a well-lit zone for agents to monitor, and deters those attempting to breach the fence and make an illegal incursion into the United States.

The activities of transnational criminal organizations and the difficult terrain and environment in which we work, pose a constant threat to agent safety. Technology, specifically surveillance technology and tactical infrastructure, helps to ensure our agents can perform their mission safely and effectively. When deployed in conjunction with tactical infrastructure and law enforcement personnel, USBP's fixed and mobile surveillance and detection technology assets are invaluable force multipliers, increasing situational awareness, creating a more secure border, and providing a greater margin of agent safety.

From an effectiveness standpoint, fixed surveillance technology increases USBP's situational awareness and our ability to detect, identify, classify, and track illicit activity, by providing line-of-sight persistent surveillance to detect incursions in varying terrain. For example, the Integrated Fixed Tower (IFT) systems are a series of fixed surveillance towers, employing a suite of camera and radar sensors that automatically detect and track subjects of interest and provide centralized operators with video and geospatial location of suspected items of interest for identification and appropriate action. Remote Video Surveillance Systems (RVSS), also fixed technology assets employing only camera sensor suites, provide short-, medium-, and long-range

persistent surveillance that transmit video to a control room and enable an operator to remotely detect, identify, classify, and track targets.

USBP also utilizes Unattended Ground Sensors (UGS) and Imaging Unattended Ground Sensors (I-UGS), which contribute to improved situational awareness, agent safety, and rapid response. These sensors support our capability to detect and identify subjects. When a ground sensor alerts to an intrusion or detection, an alarm, or trigger event, communicates to a surveillance processor, a centralized operations center computer system, or any authorized CBP network computer. I-UGS are a specific type of UGS with an integrated camera and the ability to transmit images or video back to the operations center.

USBP integrates an array of mobile and portable systems to address areas where rugged terrain and dense ground cover may allow adversaries to penetrate through blind spots or avoid the coverage areas of fixed systems. Working in conjunction with fixed surveillance assets, roads, and fencing, USBP's mobile technology assets provide flexibility and agility to adapt to changing border conditions and threats along the Southwest and Northern border.

For example, Mobile Surveillance Capability (MSC) systems provide long-range mobile surveillance with a suite of radar and camera sensors mounted on USBP vehicles. Also, CBP's Tactical Aerostats (lighter than air dirigibles) and Re-locatable Towers programs -- originally acquired by DoD -- use a mix of aerostats, towers, and electro-optical/infra-red cameras, to provide USBP with increased situational awareness through an advanced surveillance capability over a wide area. As of September 30, 2016, USBP agents have seized 65,499 tons of narcotics and apprehended over 53,000 illegal border crossers with the assistance of these aerostats and towers.

CBP's comprehensive border security operations include the coordinated and integrated capabilities of Air and Marine Operations (AMO) to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband toward or across the borders of the United States. AMO engages assets and capabilities including fixed wing, rotary, and unmanned aircraft systems in the air domain, and patrol and interdiction vessels in the maritime environment; and provides critical aerial and maritime border surveillance, interdiction, and enhanced operational effectiveness to USBP ground personnel. Expansion of AMO's critical operations is needed to support the wide range of border security activities. At present, AMO capacity to meet all the air support requirements for the USBP is limited due to flight hours, aircraft maintenance, and support for other priority DHS missions.

Technology is an essential component of contemporary border security operations. Through the deployment of these complementary and effective fixed and mobile systems, CBP gains more coverage and situational awareness of surveillance gaps, and increases its ability to adapt to changing conditions to effectively detect, identify, classify, track, and interdict potential threats along the borders.

With the deployment of more agents, better infrastructure, and more powerful technology after the 9/11 attacks, the downward trend in apprehensions has been dramatic. Since FY 2000, apprehensions have dropped by more than two thirds on the California, Arizona, New Mexico

and Texas borders. In the Tucson Sector, apprehensions are down from more than 616,000 in FY 2000 to just 63,397 in FY 2015. That's a drop of nearly 90 percent.²

It is imperative that USBP continues to promote operational agility by leveraging technological advances and innovative practices. In coordination with the new Department of Homeland Security (DHS) Joint Requirements Integration and Management System, USBP uses the Requirements Management Process to conduct mission analysis, identify capability gaps, courses of action, and initial capability requirements. From this analysis, USBP performs follow-on planning to identify operational requirements over the short, mid, and long-term and to identify potential solutions, depending on the nature, scope, severity, and geographic location of a given capability gap.

USBP is also an active participant in the DHS Secure Borders Integrated Product Team (IPT), managed by the Science and Technology Directorate (S&T), which identifies technology gaps and prioritizes the Department's research and development (R&D) efforts. This cross-component IPT provides continuous R&D project assessment, validation, and redirection to meet operational needs. A substantial portion of the DHS border security R&D portfolio consists of projects to enhance existing surveillance capabilities as well as to integrate data/information sources from new surveillance capabilities. Currently USBP is collaborating with S&T on tunnel detection and tunnel activity monitoring technology, low-flying aircraft detection and tracking systems, data collection/integration/data sharing capabilities, and fixed and mobile border surveillance tools.

With all future technology and tactical infrastructure investments, we will continue to ensure that USBP acquisition personnel work closely with agents on the ground to develop operational requirements, conduct testing and evaluation, and obtain user feedback to ensure that the right technological solution addresses its corresponding capability gap. Terrain, threat, socio-economic, and political considerations vary greatly across sectors and regions, making a "one size fits all" approach ineffective.

Continuously evolving tactics of smuggling and trafficking networks and other criminals challenge the border environment where agents patrol. We will continue to deploy sophisticated surveillance and detection technology, as well as tactical infrastructure, to detect, intercept, and prevent illegal activity crossing or approaching our border. Utilizing these technology assets, we will also enhance our situational awareness of threat levels and criminal flows in the border environment by expanding our intelligence capabilities, information sharing, and operational integration with domestic and international law enforcement partners.

² See: <https://www.cbp.gov/sites/default/files/documents/USBP%20Stats%20FY2015%20sector%20profile.pdf> and "Further Reflection," Frontline Magazine, Volume 7, Issue 2, December 1, 2015, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Jul/frontline-vol7-issue2.pdf>

Responding to Unaccompanied Alien Children

USBP is first and foremost a law enforcement organization. USBP's enforcement mission is crucial to our Nation's security, and focuses on detecting, deterring, and apprehending individuals crossing the border illegally between designated POEs.

Responding to the continued flow of unaccompanied alien children (UAC) crossing the Southwest border is also a priority. During FY 2014, the U.S. Government experienced an unprecedented increase – more than 70 percent – in the number of UAC crossing the Southwest border, compared to previous years. The resulting situation challenged the existing facilities, resources, and capabilities of CBP and other federal agencies with responsibilities to process, transport, and care for UAC.

In FY 2015, CBP apprehended 39,970 UACs crossing the border — a decrease of 42 percent from 68,541 encountered during 2014. However, in FY 2016, CBP apprehended 59,692 UACs, a 49 percent increase from FY 2015. Furthermore, in FY 2017, as of November 16, 2016, CBP has apprehended more than 10,549 UACs, compared to approximately 7,653 apprehended during the same period in FY 2016, demonstrating a 38 percent increase. Although overall UAC apprehensions since FY 2014 have declined, there has been a noticeable upward trend over the past year.

We have been closely monitoring this trend and continue to work with our partners to ensure that resources and capabilities are in place to efficiently and safely accommodate the increased number of UAC— in accordance with the *William Wilberforce Trafficking Victims Protection Reauthorization Act* (Pub. L. No. 110-457) and other legal obligations — without disrupting CBP's vital border security mission.

Since the sharp increase in 2014, we have made several changes, including training staff and expanding facility capacity, to improve our ability to process UAC efficiently, while enabling agents to perform critical border security duties. Furthermore, in response to the most recent increase, USBP has temporarily assigned 150 agents to the Rio Grande Valley Sector to assist with processing and detention of UACs and family units. CBP also opened a temporary facility in Tornillo, Texas, near El Paso, and is establishing a temporary facility adjacent to the Donna-Rio Bravo International Bridge to increase our holding capacity.³

Expanding Intelligence and Integrated Operations

In addition to sophisticated detection technology and rigorous enforcement operations, we must expand our international partnerships, intelligence, information sharing, and operational collaboration, which are key components in increasing security along the Northern and Southwest borders. Neither a single DHS Component nor even a single governmental entity can effectively police the land, maritime, and air borders of the United States. A whole-of-

³ "CBP Opens West Texas Facility to Process Surge of Illegal Border Crossers," November 19, 2016. <https://www.cbp.gov/newsroom/local-media-release/cbp-opens-west-texas-facility-process-surge-illegal-border-crossers>.

government approach that leverages interagency and international partnerships as a force multiplier has been and will continue to be the most effective way to keep our border secure.

CBP is the Executive Agent for DHS Joint Task Force-West (JTF-W), and a participating Component in Joint Task Force-East and Joint Task Force-Investigations. As the Executive Agent, CBP supports JTF-W by, among other things, providing Border Patrol personnel, who comprise the majority of the CBP personnel assigned to JTF-W. These Joint Task Forces are executing the DHS Southern Border and Approaches Campaign Plan (SBAC), which put the assets and personnel of the Department to use in a combined and strategic way to collaboratively plan and coordinate multi-component DHS operations to protect the border more efficiently. Aimed at leveraging the range of unique Department roles, responsibilities, and capabilities, the Campaign enhances our operational capability to address comprehensive threat environments in a unified way to address the range of threats and challenges, including illegal migration, smuggling of illegal drugs, human and arms trafficking, the illicit financing of such operations, and threat of terrorist exploitation of border vulnerabilities.

USBP, along with other DHS Components, also contributes to several initiatives to increase situational awareness and improve the combined intelligence capabilities of federal, state, local, tribal, and international partners. CBP hosts a monthly briefing/teleconference with state and local partners to monitor emerging trends and threats along the Northern and Southwest border and provide a cross component, multi-agency venue for discussing trends and threats. The briefing focuses on narcotics, weapons, currency interdictions, and alien apprehensions both at and between the POEs. These briefings/teleconferences currently include participants from: DHS JTF-W, ICE; USCG; Drug Enforcement Administration; Federal Bureau of Investigation; U.S. Northern Command; Joint Interagency Task Force-South; Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Attorneys' Offices; Naval Investigative Command; State Fusion Centers; and local law enforcement, as appropriate.

Providing critical capabilities toward the whole-of-government approach, USBP works with our federal, state, local, tribal and international partners – particularly Canada and Mexico – to address transnational threats. Through the 21st Century Border Management Initiative, led by a binational Executive Steering Committee, the United States and Mexico further strengthen our collaborative relationship, building on the principles of co-management and co-responsibility for our shared border. The committee discusses topics relating to expanding and modernizing our border infrastructure, securing and facilitating the cross-border flows of people and cargo, strengthening public security, and jointly engaging the border communities. The United States also cooperates extensively with Canada, through the Beyond the Border Action Plan and Binational Executive Steering Committee, to assess and address shared threats jointly, within, at, and away from our borders. This international collaboration has become even more critical in light of the evolving security threats.

USBP is also cognizant of the potential threat of foreign fighters, or other bad actors who may try to infiltrate known migrant patterns. While there is no credible evidence of infiltration, our agents remain vigilant and continue to work closely with our Federal partners, including ICE Homeland Security Investigations (HSI) and the Federal Bureau of Investigation, to address any suspected or potential terrorist threats.

Enhancing Effectiveness, Performance and Metrics

While there is still work requiring action, the Nation's long-term investment in border security between the POEs has produced significant and positive results. In FY 2016, total USBP apprehensions – an indicator of illegal migration – on the Southwest border numbered 408,870. This represents an increase over FY 2015, but was still lower than FY 2014 and FY 2013, and a fraction of apprehensions routinely observed from the 1980s through 2008. CBP also has a critical counter-narcotics role. In FY 2015, CBP seized or disrupted the movement of more than 3.3 million pounds of narcotics and more than \$129 million in unreported currency at and in between the POEs. These positive trends lend themselves to our Nation's whole-of-government approach to border security efforts, which emphasize the importance of joint planning and intelligence sharing.

The U.S. Border Patrol uses a risk-based strategy to deploy resources and address emerging threats. Risk is assessed qualitatively and quantitatively and is informed by multiple indicators, including the Consequence Delivery System (CDS).⁴

USBP uses the CDS on the Southwest border as a means to standardize decision making in the application of consequences and examines the efficiency and effectiveness of individual consequences on various types of individuals without claims for legal immigration. Recidivism⁵ and the average number of apprehensions per recidivist are the strongest indicators of CDS effectiveness. Since CDS implementation in FY 2011, the annual reported recidivism rate has decreased from an average of 27 percent to 12 percent in FY 2016, and average apprehensions per recidivist decreased from 2.71 to 2.37 during the same period. Contributing factors to the reduction included reducing the percent of apprehensions resulting in a Voluntary Return, the least effective and efficient consequence, from 59 percent in FY 2010 to 4 percent in FY 2016; and applying more effective and efficient consequences to illegal entrants with a higher probability of making subsequent illegal entries.

Conclusion

The border environment is dynamic and requires adaptation to respond to emerging threats and changing conditions. We appreciate the partnership and support USBP has received from this Committee, whose commitment to the security of the American people has enabled the continued deployment of resources and capabilities USBP needs to secure the border.

USBP's commitment to risk-based, intelligence-driven operations enables us to focus resources on a wide array of diverse threats ranging from networks of terrorism and transnational crime to individuals attempting illegal entry; from the illicit movement of weapons and drugs to human smuggling. Furthermore, USBP's application of risk management principles has enabled sound, timely operational planning and focused tactical execution against these diverse threats. Going

⁴ See Department of Homeland Security, FY 2014 -2016 Annual Performance Report, [https://www.performance.gov/sites/default/files/objectivepdfs/DHS-FY-2014-FY-2016-APR%20\(Goal%202.1\)_0.pdf](https://www.performance.gov/sites/default/files/objectivepdfs/DHS-FY-2014-FY-2016-APR%20(Goal%202.1)_0.pdf).

⁵ Repeated illegal entry by the same individual.

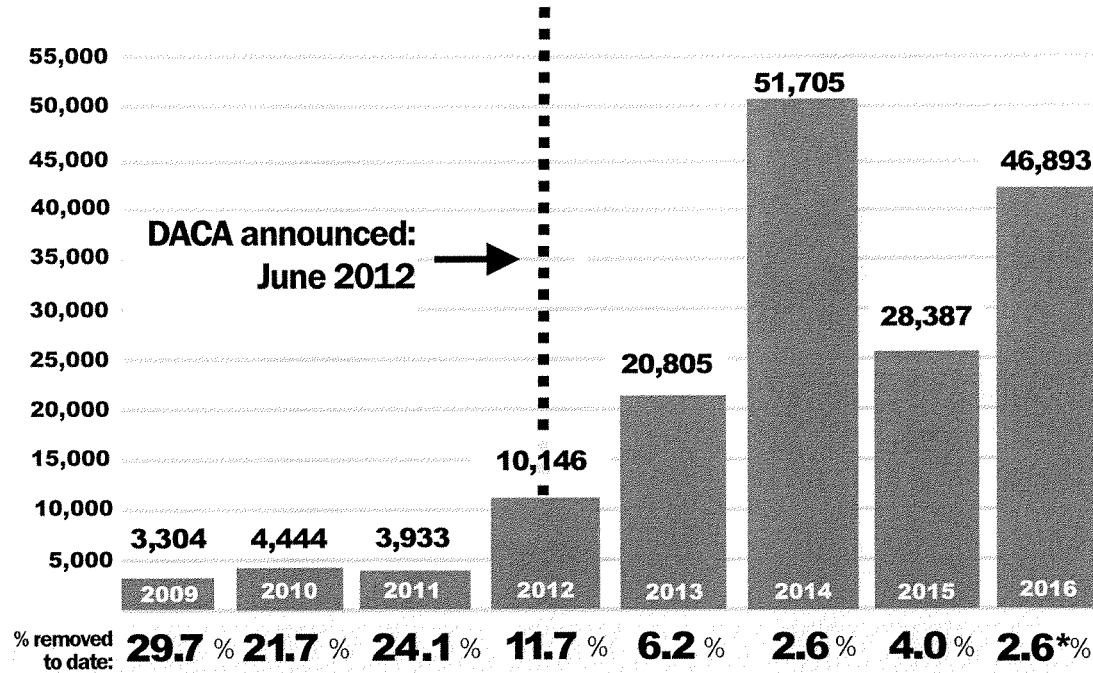
forward, we will continue to evolve our integrated risk management approach to remain agile and adaptable in supporting operational priorities.

We will continue to focus on frontline hiring, intelligence, and operational integration, in conjunction with technology and other strategic and layered enforcement operations, all of which enhance USBP's ability to detect and respond to threats in our Nation's border regions.

Chairman Johnson and Ranking Member Carper, thank you for the opportunity to testify today. We look forward to your questions.

UAC APPREHENSIONS

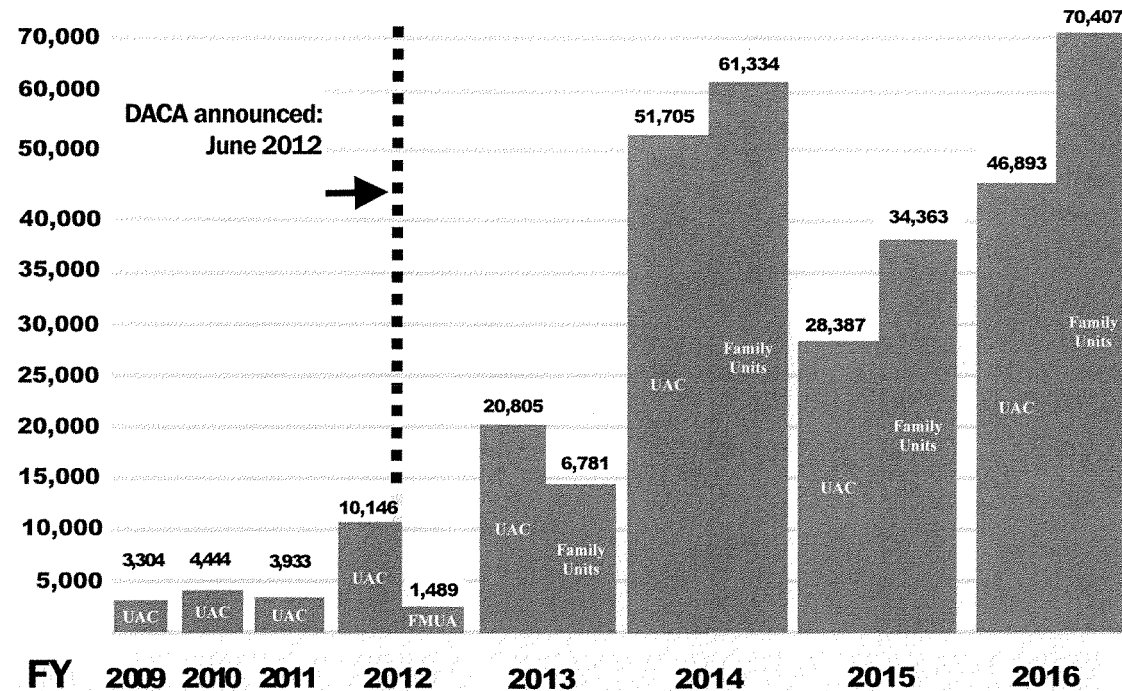
UNACCOMPANIED CHILDREN: HONDURAS, GUATEMALA, EL SALVADOR



U.S. Border Patrol, U.S. Customs and Border Protection.
 * Estimate as of June 25, 2016.

RON
JOHNSON
U.S. SENATE

UAC AND FAMILY UNITS APPREHENSIONS



* UAC figures only include unaccompanied minors from El Salvador, Guatemala, and Honduras.

U.S. Border Patrol, U.S. Customs and Border Protection.

RON JOHNSON
U.S. SENATE

UACs Released to Sponsors by State FY2014-FY2016

State	FY 2014 (Oct. 2013 – Sept. 2014)	FY 2015 (Oct. 2014 – Sept. 2015)*	FY16 (Oct. 2015 – Sept. 2016)
Texas	7,409	3,272	6,550
New York	5,955	2,630	4,985
California	5,831	3,629	7,381
Florida	5,445	2,908	5,281
Virginia	3,887	1,694	3,728
Maryland	3,884	1,794	3,871
New Jersey	2,680	1,462	2,637
North Carolina	2,064	844	1,493
Georgia	2,047	1,041	1,735
Louisiana	1,755	480	973
Massachusetts	1,372	738	1,541
Tennessee	1,294	765	1,354
Alabama	786	808	870
Pennsylvania	660	333	604
Ohio	635	483	693
South Carolina	588	294	562
Connecticut	552	206	454
Illinois	552	312	519
Indiana	448	240	354
Colorado	426	248	427
Kentucky	413	274	503
Oklahoma	377	225	301
Nebraska	351	293	486
Arizona	295	167	330
Iowa	235	201	352
Missouri	222	170	261
Delaware	212	152	275
Michigan	193	132	227
Wisconsin	85	38	85
New Hampshire	35	14	25
Wyoming	8	6	23
North Dakota	4	2	10
Montana	1	2	0
Total remaining states	2,814	1,983	3,257
Final Total	53,515	27,840	52,147

Year	Law	Unauthorized Pop.
1980s	Prior to Immigration Reform and Control Act	~2-3 million
	<i>Estimated to apply for amnesty</i>	<i>0.5 – 1 million</i>
1986	Immigration Reform and Control Act	~3,900,000
	<i>Number of people who received amnesty</i>	<i>2.7 million</i>
1990	Immigration Act of 1990	3,500,000
1996	Illegal Immigrant Reform and Immigration Responsibility Act	6,290,652
2001	Patriot Act	9,620,483
2002	Enhanced Border Security and Visa Entry Reform Act	10,258,680
2004	Intelligence Reform and Terrorism Prevention Act	10,977,950
2006	Secure Fence Act	11,714,296
2007	9/11 Commission Recommendations Act	11,981,292



**STATEMENT OF ANTHONY M. REARDON
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION
ON OVERSIGHT OF THE U. S. CUSTOMS AND BORDER PROTECTION
AGENCY
BEFORE THE COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL REFORM
UNITED STATES SENATE**

NOVEMBER 30, 2016

Chairman Johnson, Ranking Member Carper, distinguished members of the Committee, thank you for the opportunity to provide this testimony. Even though the subject of this hearing is "Initial Observations on the New Leadership at Border Patrol", as the President of the National Treasury Employees Union (NTEU), a union that represents over 25,000 Customs and Border Protection (CBP) Officers, Agriculture Specialists and trade enforcement and compliance specialists who are stationed at 328 land, sea and air ports of entry across the United States, I wanted to take this opportunity to address challenges resulting from the recent influx of asylum seekers at the Southwest border ports.

I recently met with frontline CBP Officers at several Southwest border ports of entry (POEs). They brought up several issues of concern, including the surge of arrivals from Central America, Haiti and other countries that are presenting themselves to CBP Officers seeking asylum.

Hundreds of individuals are showing up each week, if not each day, at Southwest border ports like San Ysidro, Calexico, Nogales, Douglas, San Luis and El Paso, claiming they have a "credible fear" of persecution if they return to their home country, and asking for asylum in the U.S. The asylum process calls for CBP to briefly detain individuals at the ports until Immigration and Customs Enforcement's Expedited Removal Office (ERO) takes custody of these individuals and families.

ERO has insufficient bed space to accommodate the influx of asylum seekers at current rates. This means that they must be detained at the POE facilities for longer lengths of time than intended. At Nogales, some asylum seekers have been housed at the port for as long as 7 days before ERO found beds for the detainees. These port facilities do not have the capacity or staffing to handle hundreds of asylum seekers on a steady, daily basis.

To house all of the detainees and store food to feed them all, CBP is using space designed for administrative offices as well as what can only be described as cages. Candidly, it was heartbreaking to see women and children confined like this, but the ports have no other options

at this time. Single adult males also are packed into the traditional holding cells designed to detain smugglers or wanted criminals.

I understand that detention facilities are expected to open shortly in Tornillo and Donna, Texas. But even with the opening of these new facilities, the continued stream of asylum seekers is not abating and CBP Officers will continue to be required to perform tasks that take them away from their primary mission.

Despite appropriated funding for the hiring of 2,000 additional CBP Officers, CBP has realized a net gain of only 1,060 Officers as of June 2016, due to attrition and the amount of time it takes to bring on new CBP Officers. CBP estimates that it would need an additional 2,107 CBP Officers, over and above the 2,000 Officers funded in FY 2014, through FY 2017 to meet optimal staffing. Since 2015, CBP has diverted Officers from their assigned ports to San Ysidro and more recently to Nogales POEs for 90-day TDYs.

Recommendations

To address this dire situation, as well as other staffing shortages around the country, it is clearly in the nation's interest for Congress to authorize and fund an increase in the number of CBP Officers and other CBP employees. Over the years, NTEU has worked with Congress on a variety of proposals that would increase CBP's funding to support additional personnel, as well as to address other hiring challenges that create barriers to adding staff in a timely and efficient manner. For instance, we are hopeful that NTEU supported legislation that will allow recent military personnel to be hired as CBP Officers without undergoing a polygraph will be enacted soon. And we have urged CBP to be ready to immediately take advantage of this change.

However, in addition to our longer-term goals of securing the proper staffing at CBP to address workloads, NTEU recommends that Congress call for a series of immediate steps that CBP should take to alleviate the immediate burdens being placed on CBP Officers:

- CBP Officers are not trained or qualified as medical professionals, and should not be tasked with such work. Additional medical support is critically needed. CBP should seek assistance from the Federal Occupational Health Service, or as was done during the Ebola crisis, request the assignment of Coast Guard medics to help with health screenings of detainees.
- CBP should consider re-hiring recently retired CBP Officers (so called re-employed annuitants) who could be brought on board quickly without the need for extensive new training or background checks.
- An immediate review should be undertaken of CBP's current polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other federal law enforcement agencies; and
- Immediate polygraph re-testing opportunities should be afforded to those with a No Opinion or Inconclusive result, including those with a No Opinion Counter Measures finding.

On November 22, CBP sent out an updated TDY solicitation that directs 14 CBP Field Offices to provide 200 CBP Officers for TDYs to the San Diego and Tucson Field Office. For example, in this solicitation, CBP directs the New York Field Office to send 12 CBP Officers to the San Diego Field and 13 CBP Officers to the Tucson Field Office from January 9 through April 7, 2017. NTEU suggests Congress should ask that CBP supplement the TDY solicitation to include the following suggestions:

- The size of the TDY pool should be immediately increased by including non-bargaining unit personnel such as qualified Headquarters staff, supervisors, and other employees on special teams such as Tactical Terrorism Response Team and the Strategic Response Team, and by including all Officers who have graduated from FLETC and who have received a sufficient amount of post-academy training;
- CBP should schedule TDYs in such a way that the supplemental staffing through TDYs remains constant, so there is not a gap between the departure of one round TDYs and the arrival of the next;
- CBP should establish an advertised cash award for individuals who volunteer for a TDY and should offer available incentives such as student loan repayments, overtime cap waivers, and home leave;
- A surplus of volunteers for a TDY from one Field Office should be allowed to make up for a shortage of volunteers in another Field Office; and
- Approved leave should continue to be allowed during a TDY.

Lastly, NTEU recommends that Congress pursue additional funding as part of the FY 2017 Continuing Resolution to address the staffing and overtime funding shortages facing the POEs that are seeing large numbers of asylum seekers. The demand for staffing to process, detain and attend to the needs of the detainees at these ports is causing CBP to burn through its overtime budget at a much higher than anticipated rate, which could result in staffing shortages at major airports during the peak travel season this summer.

Congress should also redirect the recently enacted increase in Customs User Fees from offsetting transportation spending to its original purpose of providing funding for CBP Officer staffing and overtime.

The more than 25,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea and land ports, but those working at the Southwest border POEs need immediate relief. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

**Post-Hearing Questions for the Record
Submitted to USBP Chief Mark Morgan and USBP Deputy Chief Carla Provost
From Senator Rob Portman**

**“Initial Observations of the New Leadership at the U.S. Border Patrol”
November 30, 2016**

1. How much heroin is CBP stopping at the border? The Washington Post article referenced below suggests that the border detection rate is around 1.5%.

No one knows how many tons of drugs slip across that border. Authorities only know what they manage to stop. Researchers believe the border detection rate hovers around 1.5 percent — favorable odds for a smuggler.

(<http://www.washingtonpost.com/sf/national/2015/09/24/pellets-planes-and-the-new-frontier/>)
2. What resources does CBP need to effectively fulfill its mission statement?
 - *To safeguard America's borders thereby protecting the public from dangerous people and materials while enhancing the Nation's global economic competitiveness by enabling legitimate trade and travel.*
3. In your response to questions you indicated that different regions required different resources. Please provide a list of the resources required by region to successfully fulfill your mission.
4. The number of drug induced deaths in the United States has surpassed deaths by motor vehicles. Where could we focus resources within CBP to significantly reduce the flow of drugs across the border? What additional resources are necessary to achieve those results?

Due to the change-over in Administration, responses were never received to these questions for the record.

**Post-Hearing Questions for the Record
Submitted to Chief Mark Morgan and Deputy Chief Carla Provost
From Senator Claire McCaskill**

**“Initial Observations of the New Leadership at the U.S. Border Patrol”
November 30, 2016**

I understand that the use of body cameras for Border Patrol officers is currently being considered, but an internal review has recommended against the idea.

Q. When can we expect a final decision on whether to require body cameras for Border Patrol, even on a trial basis?

The review cited, among other reasons for its recommendation, agents’ rugged working conditions. Yet the GoPro video camera website has videos with their cameras of people jumping out of helicopters, snowboarding down cliffs and biking down mountains, off jumps and across rooftops.

Q. Can you explain the specific issues with the Border Patrol’s working conditions make body cams difficult?

The other issues cited in the internal review are also questionable. CBP would have to think through and have policies on all of the concerns raised – including storage and retention issues, access to footage, when to turn the cams on, and others mentioned in the report – but none of these issues are unique to the border patrol, and we are starting to see body cams implemented by other law enforcement agencies around the country.

Q. Will you commit to at least a pilot program?

I am very concerned about whistleblower retaliation at DHS.

Q. In the past 5 years, how many whistleblower retaliation claims by Border Patrol officers have been substantiated by an IG, the OSC, Merit Systems Protection Board (MSPB) or a court of law, and what disciplinary action has been taken against the person who was found to have committed or approved the prohibited personnel practice?

Q. Do you know how many whistleblower retaliation claims were settled by the OSC or MSPB with no official finding of fault and whether superior officers are disciplined in those cases?

Q. For any settlement or other agreement on a whistleblower retaliation claim, does the Border Patrol require the whistleblower to sign a non-disclosure agreement related to the settlement?

Based on CBP’s own data, since President Obama came to office, total apprehensions at the border exceeded 500,000 just once – his first year in office. Although that is still a lot of people trying to cross into this country, fewer people unlawfully crossed the border during every single year of this administration than any prior administration since at least Reagan. In fact, during the George W. Bush years, apprehensions *averaged* over 1 million per year, more than double the Obama Administration’s average. In other words, we likely had twice the flow of undocumented immigrants entering the country during the Bush years than during the Obama presidency.

Q. Given these numbers, is it fair to say that, even if we are not where we need to be, the border under the Obama administration is more secure than it has been since at least 1980?

On the removal side, the story is similar for this administration. There have been over 400,000 removals in each of the last three years for which we could find data – 2012 through 2014 – and removals have never fallen below 381,962 during this administration. By comparison, the George W. Bush administration averaged just 251,567, and never once even reached the low water mark of the Obama administration. Even after implementing DACA and establishing enforcement priorities, the administration still deported more undocumented immigrants each year than every prior administration since 1980.

So under this administration, we are removing more undocumented immigrants and fewer and fewer are getting across. Yet despite these successes, you hear the constant drumbeat that this president has been responsible for a porous border.

Q. Does all the talk of how “porous” our borders are affect morale among agents?

Congress has passed a number laws that require construction of at least 700 miles of fencing. My understanding is that that number was chosen because that would cover most of the border where a fence is even feasible, once you exclude the Rio Grande River, the mountains and desert in Arizona and New Mexico where it is logistically difficult to build, and private property concerns along the border.

Q. Given these constraints, the 700 miles of fencing that we currently have in place covers approximately what percentage of the southern border that we can feasibly construct fencing on?

Q. In weighing the costs and benefits of additional fencing, if you had prioritize building additional fencing where we currently have none or improving the type of fencing we have in certain locations to make it harder to cut through or to simply pick up and move in the case of the Normandy-style barriers, how would you prioritize those?

Q. Is there a plan in place to continue replacing existing fencing with better, more secure materials, and, if so, can you briefly describe the plan?

The president of the National Border Patrol Council said recently that 100% border security is completely feasible. When pressed by the host of the radio show he was on that even East Berlin did not achieve 100% security, he insisted that it could be done.

Q. Do you agree with his assessment that catching every single border crosser is feasible?

Q. If so, what would such a plan look like and how much additional funding would be required? If not, how would you define a “secure southern border” and what would you need to reach that definition of security?

A number of ICE agents were party to a lawsuit trying to stop DACA implementation. I sit on the Senate Armed Services Committee, and I cannot ever recall a situation where a member of the armed forces sued the Commander in Chief to change policy.

Q. Can you recall any such actions having been taken by officers or enlisted members of the Armed Forces?

Q. If certain officers have a problem with policies being directed towards them, what avenues do they have to complain or push back?

I understand that a lot of the border crossers are now presenting themselves to Border Patrol.

- Q. Why are they showing up at ports of entry now and running towards Border Patrol instead of away from them as they had in the past?
- Q. Would you characterize the current surge as a refugee or asylum issue?
- Q. How is this affecting your manpower resources?
- Q. Do you think we need to consider changes to our force structure given the changing composition of the people trying to cross our borders?

Due to the change-over in Administration, responses were never received to these questions for the record.

**Post-Hearing Questions for the Record
Submitted to Chief Mark Morgan
From Sen. Tammy Baldwin**

“Initial Observations of the New Leadership at the U.S. Border Patrol”

November 30, 2016

1. Please provide specifics on the training Border Patrol agents receive regarding harassment, discrimination and implicit bias, including curriculum and topic areas.
 - a. Is training regularly updated and if so, how often do Border Patrol agents receive refresher training after their initial academy training?
 - b. The Department of Justice released its profiling Guidance for Federal Law Enforcement in December 2014. I understand that DHS has prepared its own follow-up policy, with specific attention to CBP and TSA. What is the status of this policy’s anticipated release date? Will it be accompanied by training and data collection plans?
2. Border Patrol agents encounter individuals who speak a variety of languages, including Spanish.
 - a. Please outline what language training a Border Patrol agent receives, including refresher training, if applicable.
 - b. What financial incentives exist, if any, for Border Patrol agents who become and remain proficient in other languages? Are these incentives the same for the Office of Field Operations (OFO)?
 - c. If there are differences between BP and OFO, please explain whether you agree with this policy.
3. I appreciate the work performed by dedicated external law-enforcement professionals on the CBP Integrity Advisory Panel, co-chaired by former NYPD Commissioner Bratton and former DEA Administrator Tandy. Last June, the Panel made specific recommendations on CBP’s use-of-force policy, including that CBP should consider changing its policy on shooting at vehicles. Specifically, the Panel stated that CBP should “[p]rohibit or restrict discharging firearms at a moving vehicle unless deadly force, other than the vehicle itself, is being used/threatened against the officer/agent or another person present unless it is not possible for the threatened officer to avoid being struck by the vehicle.” The Panel explained that “[w]hen firing at a moving vehicle, there is little likelihood of incapacitating the driver or disabling the vehicle. Even if the driver is incapacitated, an out of control vehicle may present an even greater hazard to the officers/agents.”
 - a. Do you agree with this recommendation?
 - b. If so, will CBP revise its policy to implement this recommendation?
4. The DHS Office of Inspector General expressed concern that DHS was violating international law by referring individuals who express fear of persecution for criminal prosecution under Operation Streamline or equivalents. Specifically, the IG stated that “Border Patrol does not have guidance on using Streamline for aliens who express fear of persecution or return to their

home countries, and its use of Streamline with such aliens is inconsistent and may violate U.S. treaty obligations.”

- a. Do you agree that referring individuals who express fear of persecution for criminal prosecution is inconsistent with international law?
- b. If so, what steps has CBP taken to end the practice of referring asylum seekers for criminal prosecution?

Due to the change-over in Administration, responses were never received to these questions for the record.

**Post-Hearing Questions for the Record
Submitted to Chief Mark Morgan and Deputy Chief Carla Provost
From Senator Cory A. Booker**

“Initial Observations of the New Leadership at the U.S. Border Patrol”

December 15, 2016

Questions For Chief Mark Morgan

1. In 2015, the ACLU chapter in Arizona issued a report entitled “Record of Abuse: Lawlessness and Impunity in Border Patrol’s Interior Enforcement Operations.” Government records obtained by the ACLU highlighted troubling allegations of civil rights abuses by Border Patrol agents during their interior enforcement operations and a systemic lack of oversight. The report included allegations of agents threatening motorists with assault rifles, electroshock weapons, and knives; destroying and confiscating personal property’ and interfering with efforts to video record Border Patrol activities. In addition, the report referenced dozens of false alerts by Border Patrol canines resulting in searches and detentions of innocent travelers. Equally troubling, the report show a lack of investigation, or even discipline of agents, for such civil rights abuses. Please detail what actions, if any, Border Patrol has taken to investigate the allegations in this report and describe what oversight mechanisms are in place to ensure that Border Patrol agents who violate the civil rights of innocent Americans are disciplined.
2. According to the ACLU’s “Record of Abuse” report, the Border Patrol may have underreported the number of civil rights complaints against Border Patrol agents. Even though the ACLU data was incomplete and taken from just two of the Border Patrol’s 20 sectors, they significantly outnumber the civil rights complaints the Department of Homeland Security disclosed to Congress during that same period. For example, between Fiscal Years 2012 and 2013, DHS oversight agencies reported just three complaints involving Fourth Amendment violations nationwide. Yet, government records produced to the ACLU reveal that at least 81 such complaints originated in Tucson and Yuma Sectors alone during the same period.
 - a. How does your agency account for this disparity in data reported to Congress versus data reported to the ACLU?
 - b. Please describe in detail the numbers of civil rights allegations against Border Patrol agents between Fiscal Year 2012 until the present date, including a short description of the nature of the allegations; the resolution, if any, of the allegation; and describe what disciplinary action, if any, was taken against the agent(s).
 - c. Between Fiscal Year 2011 and now, how many Border Patrol agents have been disciplined for civil rights abuses? Please describe in detail a short summary of the nature of the allegations that resulted in discipline and describe the nature of disciplinary action that was taken.
3. According to the aforementioned ACLU’s report, Border Patrol fails to record any stops that do not lead to an arrest, even when the stop results in a lengthy detention, search, and/or property damage. The ACLU report also asserts that Border Patrol does not document false alerts by service canines, which frequently results in prolonged searches and seizures of travelers. As a result, it is impossible for Border Patrol to track or respond to recurring incidents involving “problem agents” or routinely inaccurate service canines.
 - a. Is it true that Border Patrol does not collect data on stops that do not lead to arrest and, if so, why is such data on stops not collected?

- b. Is it true that Border Patrol does not document false alerts by service canines and, if so, why is such data on canine false alerts not collected?
 - c. What metrics are in place for Border Patrol to track data on stops that do not lead to arrest or false alerts by service canines?
- 4. During the hearing, I asserted my surprise that Border Patrol does not collect data on stops, racial profiling, and described how the president's 21st Century Task Force on Policing urged law enforcement to collect data on detentions. In response, you testified that you believed that Border Patrol was, in fact, "collecting most of that stuff."
 - a. Please describe in detail all of the data Border Patrol collects on its interactions with civilians and allegations of civil rights abuses.
 - b. Given your testimony that Border Patrol is "collecting most" data on detentions, please describe in detail what exactly your agency collects on demographic and other data on stops and secondary inspections, including those that do not result in an arrest or complaint?
 - c. Does Border Patrol plan to expand the data collected on civilian law enforcement encounters and please provide a timeline for implementing this data collection effort?
 - d. You testified that what Border Patrol "need[s] to do is get[ter] [at] analyzing that stuff," meaning Border Patrol needs to improve how it analyzes data on stops, searches, racial profiling, and detentions. Please describe in detail how Border Patrol processes and evaluates allegations of civil rights abuses once they are received and describe what metrics are in place to ensure that such data is analyzed properly.
 - e. Last June, the Justice Department announced a new Department-wide implicit bias training for its personnel. The Justice Department will train all of its law enforcement agents and prosecutors to recognize and address implicit bias as part of its regular curricula. Does the Border Patrol plan to implement implicit bias training? Why or why not? And please describe a timeline for when such training will be implemented.
- 5. Open government and transparency is critical to oversight. In December 2014, the president's 21st Century Task Force on Policing recommended that law enforcement agencies "regularly post on the department's website information about stops, summons, arrests, reported crime, and other law enforcement data aggregated by demographics." Has Border Patrol implemented the task force's recommendation and, if not, how long will it take Border Patrol to do so.
- 6. Last December, a federal court in Arizona found that Border Patrol violated the constitutional rights of people detained in holding facilities in Arizona. The court ordered Border Patrol to provide all detained individuals held over 12 hours with a mat to sleep on and must provide some means or materials so that people held longer than 12 hours can wash and maintain personal hygiene. In light of this ruling, what has Border Patrol done to improve conditions in its short-term detention facilities and when will the court's ruling fully be implemented by the agency?

Questions For Deputy Chief Carla Provost

7. During the hearing, you testified that on data collection the Office of Professional Responsibility has been "working diligently" with Border Patrol to improve transparency across the agency. What specific actions has Border Patrol taken to improve transparency in its collection of data and when will such efforts to promote open government be completed?
8. On the issue of workplace diversity, you testified that women comprise about 5 percent of Border Patrol agents, but you believed the agency is "making strides in that area, so that [you] have a more diverse workforce." What specific changes has Border Patrol made to recruit, hire, and retain women in Border Patrol? And what steps is Border Patrol taking to increase the number of agents from other underrepresented groups?
9. Last September, the *Albuquerque Journal* published an article entitled "Women break barriers as Border Patrol agents." According to the article, Border Patrol has the lowest ratio of women in federal law enforcement, including just "six women among 300 agents assigned to the Border Patrol's Deming station." Does Deming station have the lowest representation of women of all Border Patrol stations? If not, what station has even lower ratios of women?
10. The *Albuquerque Journal* found that, according to the U.S. Customs and Border Patrol, Border Patrol's parent agency, between October 2014 and September 2015 6,200 women applied for vacancies posted by the agency. But just 54 women were hired. Why were so few women hired for positions as Border Patrol agents, if the agency is taking strides to improve the diversity of its workforce?
11. The *Albuquerque Journal* noted that Border Patrol requires recruits to scale a seven-foot high wall as part of its physical requirements. According to one female recruit quoted in the article, the wall requirement shows the "arbitrariness of some of the physical requirements" and "has been shown to be discriminatory." Do you agree with that statement and what actions are Border Patrol taking to eliminate requirements that may bias women and other underrepresented groups?
12. Please describe in detail what language training a Border Patrol agent receives, including supplemental training once the agent is hired.

For Both Chief Morgan and Deputy Chief Provost

13. In November 2015, U.S. Customs and Border Protection Commissioner R. Gil Kerlikowske announced that new body-worn camera testing would be integrated into law enforcement operations, including checkpoints and outbound operations at ports of entry. Before implementing the body-worn camera program Commissioner Kerlikowske mentioned that the agency would have to develop sound policies to address privacy and other concerns, including video data storage and training. Since the November 2015 announcement, what progress has been made in implementing body-worn cameras and when can the American public expect the deployment of body-worn and dashboard cameras?
14. Last March, the Police Executive Research Forum published a report entitled "Critical Issues in Policing Series: Guiding Principles on Use of Force." One of the policy proposals in the report was for law enforcement to document use-of-force incidents, as well as review data and enforcement practices to ensure that they are fair and non-discriminatory. That proposal included the recommendation that "agencies should capture and review reports on the pointing of a firearm or an Electronic Control Weapon at an individual as a threat of force." Does Border Patrol require its agents to report on uses of force that include the pointing of a firearm, but not the discharging of the firearm? Why or why not?
15. On December 7, 2016, *The Guardian* published an article entitled, "US Border Patrol uses desert as 'weapon' to kill thousands of migrants, report says." The article detailed the finding of a report by No

More Deaths, a ministry of the Unitarian Universalist Church of Tucson, which concluded that thousands of migrants have gone missing since the 1990s, including 1,200 last year. According to the article, the report noted that Border Patrol has engineered the death and disappearances of tens of thousands of undocumented immigrants by using the desert wilderness as a weapon. Agents chase border crossers across hostile terrain, which results in many migrants being injured, dead, or lost. What actions has Border Patrol taken, like additional search-and-rescue personnel or water stations, to prevent migrant deaths along the Southwest border?

16. In May 2014, the Department of Justice announced a presumption that statements made by people in federal custody, following arrest but prior to their first court appearance, would be electronically recorded. The benefits of this policy are obvious; it creates a record to ensure that detained individuals are afforded their constitutional rights, while allowing law enforcement agents a clear record of statements and confessions. Does Border Patrol require the recording of detained individuals' statements, why or why not? If not, when will Border Patrol implement such a policy?
17. An October 30, 2015, article in *The Atlantic Citylab*, entitled "Curbing the Unchecked Power of the U.S. Border Patrol," described how in interviews Border Patrol officials seemed unsure about what legal requirements, like probable cause, governed agents searching cars for possible immigration and general criminal violations. In fact, the article describes how one agent "finally stated that probable cause was not necessary to conduct an immigration-related search." But that statement is false because probable cause, consent, or a warrant is needed for a vehicle search if it the search does not occur at a port of entry. What steps is Border Patrol taking to train its officers on the legal requirements to conduct search and seizures?
18. Recent reports show that Border Patrol agents have taunted migrants with threats of deportation post the election of Donald Trump to be president. In a November 18, 2016, article in the *Washington Post*, entitled "Fearing Trump's Wall, Central Americans rush to cross the U.S. Border," people caught attempting to enter the country illegally along the southwest border were told by Border Patrol agents that they "would all be deported because Trump won." What guidance does Border Patrol give to agents to ensure that harassment of migrants does not occur?

Due to the change-over in Administration, responses were never received to these questions for the record.